

SCHEDULES

SCHEDULE 1

Regulation 6(1)

Modification of enactments: making conversion decisions

PART 1

MODIFICATION OF PART 1 OF THE 2007 ACT

[^{F1}1]. Any reference to a claimant is to be read as if it were a reference to a notified person.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[^{F2}2]. [^{F2}Section 1 is to be read as if

(a) for subsection (2), there were substituted—

“(2) Subject to the provisions of this Part, a notified person is entitled to an employment and support allowance if the person satisfies the basic conditions and—

- (a) is entitled to an existing award of incapacity benefit or severe disablement allowance;
- (b) is entitled to an existing award of income support and satisfies the conditions set out in Part 2 of Schedule 1, unless subsection (2)(c) applies; or
- (c) is entitled to an existing award of income support by virtue of—
 - (i) regulation 13(2)(b) or (bb) of the Income Support (General) Regulations 1987 (circumstances in which persons in relevant education may be entitled to income support), or
 - (ii) paragraph 10 (disabled students) or 12 (deaf students) of Schedule 1B to those Regulations,

and satisfies the conditions set out in Part 2 of Schedule 1, with the exception of the condition in paragraph 6(1)(g).”;

(b) subsection (3)(e) were omitted.]

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

F2 Sch. 1 para. 2 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), **16(2)** (with reg. 15(2))

[^{F3}3]. Section 2 is to be read as if, in subsections (2)(a) and (3)(a), references to the assessment phase were to the conversion phase.

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)

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[^{F1}4]. Section 4 is to be read as if, in subsections (4)(a) and (5)(a), references to the assessment phase were to the conversion phase.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[^{F1}5]. Section 5 does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[^{F1}6]. Schedule 1 to the 2007 Act is to be read as if—

- (a) paragraphs 1 to 5 were omitted; and
- (b) in paragraph 6, after sub-paragraph (1), there were inserted—

“(1A) Paragraphs (1B) and (1C) apply in relation to any person (“P”) whose existing award of income support is subject to conversion under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”).

(1B) In determining for the purposes of paragraph (1)(a) whether P's income exceeds the applicable amount, any amount to which P may become entitled by way of a transitional addition under Part 2 of the 2010 Regulations shall be disregarded.

(1C) But where—

- (a) P's existing award would qualify for conversion under Part 2 of the 2010 Regulations but for the fact that the condition set out in paragraph (1)(a) is not satisfied in P's case; and
- (b) P would otherwise be entitled to an amount of transitional addition under Part 2 of the 2010 Regulations as a result of carrying out Step 2,

the condition set out in paragraph (1)(a) shall be treated as having been satisfied and the amount of an employment and support allowance which applies to P as a result of Step 1 shall be nil.”

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

PART 2

MODIFICATION OF THE 2008 REGULATIONS

[^{F1}7]. Any reference to a claimant is to be read as if it were a reference to the notified person.

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)

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[**F18**]. Part 2 (which makes provision about the assessment phase) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[**F19**]. Part 3 (which makes provision about contribution conditions which do not apply by virtue of modifications contained in these Regulations) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[**F110**]. Regulation 30 (which provides for payment of the allowance pending determination of limited capability for work) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

[**F310A**]. In the case of a person who is entitled to an existing award of income support and who is a person to whom paragraph (1) of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004 applies, regulation 70 (special cases: supplemental – persons from abroad) is to be read as if—

- (a) the word “or” at the end of paragraph (4)(k) were omitted; and
- (b) at the end of paragraph (4)(jj) the word “or” and the following sub-paragraph were added—
 - “(l) a person who is entitled to an existing award of income support where that person is a person to whom paragraph (1) of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004 applies”.]

F3 Sch. 1 para. 10A 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), **16(3)** (with reg. 15(2))

[**F111**]. Regulation 75 (payments treated as not being payments to which section 3 of the 2007 Act applies) is to be read as if—

- (a) the existing provisions were renumbered as paragraph (1);
- (b) at the end of that paragraph there were added—
 - “(g) any pension payment or PPF periodic payment which is made to a notified person and which falls within paragraph (2).”; and
- (c) after that paragraph there were added—
 - “(2) This paragraph applies to any pension payment or PPF periodic payment made to the notified person where, immediately before the effective date of the person's conversion

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)

decision, section 30DD(1) of the Contributions and Benefits Act ^{M1} (incapacity benefit: reduction for pension payments and PPF periodic payments)—

- (a) did not apply to the notified person by virtue of regulation 26 of the Social Security (Incapacity Benefit) Regulations 1994 ^{M2} (persons whose benefit is not to be reduced under section 30DD(1)); or
- (b) was not treated as applying to the notified person by virtue of—
 - (i) regulation 19(1)(c) or (2)(c) of those Regulations (persons formerly entitled to severe disablement allowance); or
 - (ii) article 3 of the Welfare Reform and Pensions Act 1999 (Commencement No.9, and Transitional and Savings Provisions) Order 2000 ^{M3} (transitional provision in relation to incapacity benefit).”.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

Marginal Citations

- M1** Section 30DD was inserted by section 63 of the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#) and amended by [S.I. 2006/343](#).
- M2** [S.I. 1994/2946](#).
- M3** [S.I. 2000/2958](#).

[^{F1}12]. Regulation 144 (requirement to serve a period of waiting days at the beginning of a period of limited capability for work) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

PART 3

MODIFICATION OF OTHER SECONDARY LEGISLATION

Social Security (Claims and Payments) Regulations 1987

[^{F1}13]. Regulation 32 of the Social Security (Claims and Payments) Regulations 1987 ^{M4} (information to be given and changes to be notified) is to be read as if it were modified so as to enable the Secretary of State to require from any person entitled to an existing award—

- (a) under paragraph (1), information or evidence for determining whether ^{F4}... an existing award should be converted into an award of an employment and support allowance; and
- (b) under paragraph (1A), information or evidence in connection with payment of benefit in the event that an existing award is converted into an award of an employment and support allowance.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (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)(a)**

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)

F4 Words in Sch. 1 para. 13(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), **16(4)** (with reg. 15(2))

Marginal Citations

M4 [S.I. 1987/1968](#). Regulation 32(1) and (1A) were inserted by [S.I. 2003/1050](#).

SCHEDULE 2

Regulation 16(1)

Modification of enactments: after the conversion phase

PART 1

MODIFICATION OF PART 1 OF THE 2007 ACT

[^{F5}1]. Any reference to a claimant is to be read as if it were a reference to a person in relation to whom a conversion decision has been made under these Regulations.

F5 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)**

[^{F5}2]. Section 1 (employment and support allowance) is to be read as if—

[^{F6}(a) for subsection (2), there were substituted—

“(2) Subject to the provisions of this Part, a person is entitled to an employment and support allowance if the person satisfies the basic conditions and—

(a) in accordance with Part 2 of the [Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010](#), the effect of the conversion decision that was made in relation to the person was to convert the person’s existing award or awards into a single award of an employment and support allowance;

(b) that conversion decision has come into effect; and

(c) where—

(i) the effect of that conversion decision is that the person is entitled to an income-related allowance, or

(ii) the effect of that conversion decision is that the person is entitled to a contributory allowance and the person subsequently becomes entitled to an income-related allowance,

the person also satisfies the conditions set out in Part 2 of Schedule 1 (conditions relating to financial position), except for the condition in paragraph 6(1)(g) in the case of a person who, before that conversion decision was made, had been entitled to an existing award of income support by virtue of regulation 13(2) (b) or (bb) of the [Income Support \(General\) Regulations 1987](#) (circumstances in which persons in relevant education may be entitled to income support), or paragraph 10 (disabled students) or 12 (deaf students) of Schedule 1B to those Regulations.”; and]

(b) for subsection (7), there were substituted—

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)

“(7) In this Part—

“contributory allowance” means an employment and support allowance to which a person is entitled by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 which was based on an award of incapacity benefit or severe disablement allowance to which the person was entitled; and

“income-related allowance” means an employment and support allowance to which a person is entitled by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 which was based on an award of income support to which the person was entitled.”.

- | | |
|-----------|---|
| F5 | 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) |
| F6 | Sch. 2 para. 2(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(2) (with reg. 15(2)) |

[^{F7}**2A.**—(1) In relation to awards of an employment and support allowance to persons previously entitled to existing awards, the application of section 1A (duration of contributory allowance) is modified in accordance with sub-paragraph (2).

(2) Section 1A is to be read as if there were substituted—

“**1A.**—(1) The period for which a person is entitled to a contributory allowance shall not exceed, in the aggregate, the relevant maximum number of days in any period for which his entitlement is established by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.

(2) In subsection (1) the “relevant maximum number of days” is—

- (a) 365 days, or
- (b) if the Secretary of State by order specifies a greater number of days, that number of days.

(3) The fact that a person’s entitlement to a contributory allowance has ceased as a result of subsection (1) does not prevent his being entitled to a further allowance if he satisfies the first and second conditions set out in Part 1 of Schedule 1.

(4) In calculating for the purposes of subsection (1) the length of the period for which a person is entitled to a contributory allowance, the following are not to be counted—

- (a) days in which the person is a member of the support group, and
- (b) days not falling within paragraph (a) in respect of which the person is entitled to the support component referred to in section 2(1)(b).

(5) In calculating for the purposes of subsection (1) the length of the period for which a person is entitled to a contributory allowance, days occurring before the coming into force of this section are to be counted (as well as those occurring afterwards).”.]

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)

F7 Sch. 2 para. 2A inserted (1.5.2012) by [The Employment and Support Allowance \(Duration of Contributory Allowance\) \(Consequential Amendments\) Regulations 2012 \(S.I. 2012/913\)](#), regs. 1(2), **10(4)**

[^{F5}3]. Section 2 (amount of contributory allowance) is to be read as if—

- (a) in subsection (1)(a), after the words “such amount” there were inserted “, or the aggregate of such amounts, ”; and
- (b) except for the purposes of applying regulation 147A of the 2008 Regulations (claimants appealing a decision), in subsections (2)(a) and (3)(a), references to the assessment phase were to the conversion phase.

F5 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)**

[^{F5}4]. Section 4 (amount of income-related allowance), except for the purposes of applying regulation 147A of the 2008 Regulations as modified by paragraph 15 of this Schedule, is to be read as if, in subsections (4)(a) and (5)(a), references to the assessment phase were to the conversion phase.

F5 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)**

[^{F8}4A. Schedule 1 to the 2007 Act (employment and support allowance: additional conditions) is to be read as if, in paragraph 6, after sub-paragraph (1), there were inserted—

“(1A) Paragraphs (1B) and (1C) apply where any person (“P”) is entitled 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”) to an employment and support allowance which is attributable to an income-related allowance.

(1B) In determining for the purposes of paragraph 6(1)(a) whether P’s income exceeds the applicable amount, the amount of any transitional addition to which P is entitled under the 2010 Regulations shall be disregarded.

(1C) Where—

- (a) P ceases to satisfy the condition set out in sub-paragraph (1)(a); but
- (b) otherwise remains entitled to an amount by way of a transitional addition under the 2010 Regulations,

the condition set out in sub-paragraph (1)(a) shall be treated as satisfied in P’s case and the amount of income-related allowance to which P is entitled shall be the amount of the transitional addition.”]

F8 Sch. 2 para. 4A 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(3)** (with reg. 15(2))

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)

PART 2

MODIFICATION OF OTHER PRIMARY LEGISLATION

Social Security Act 1998

[^{F5}5]. Schedule 3 to the Social Security Act 1998 ^{M5} (decisions against which an appeal lies) is to be read as if, after paragraph 8D, there were inserted—

“Conversion of certain existing awards into awards of an employment and support allowance

8E. A conversion decision within the meaning of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”.

F5 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

M5 1998 c. 14. Paragraphs 8A to 8D of Schedule 3 were inserted by paragraph 12 of Schedule 1 to the [State Pension Credit Act 2002 \(c. 16\)](#).

Social Security Contributions and Benefits Act 1992

[^{F5}6]. Section 44B of the Social Security Contributions and Benefits Act 1992 ^{M6} (deemed earnings factors: 2010-11 onwards) is to be read as if, after subsection (5), there were inserted—

“(5A) In determining whether Condition C is satisfied in relation to any pensioner, the following entitlements of the pensioner to an earnings factor credit may be aggregated if the weeks to which they relate comprise a continuous period—

- (a) any entitlement arising by virtue of—
 - (i) section 44C(3)(c) below (eligibility for earnings factor enhancement in respect of a week in which severe disablement allowance was payable), or
 - (ii) section 44C(3)(d) below (eligibility for earnings factor enhancement in respect of a week in which long-term incapacity benefit was, or would have been, payable); and
- (b) where an award of severe disablement allowance or long-term incapacity benefit was converted into an award of 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, any entitlement arising by virtue of regulation 5A(2)(ba) of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001 ^{M7} (earnings factor credits eligibility for pensioners to whom employment and support allowance was payable).”.

F5 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)**

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)

Marginal Citations

- M6** 1992 c. 4. Section 44B was inserted by section 9(1) of the [Pensions Act 2007 \(c. 22\)](#) and amended by paragraph 5 of Schedule 1 to the [National Insurance Act 2008 \(c. 16\)](#).
- M7** [S.I. 2001/1323](#). Regulation 5A was inserted by [S.I. 2009/2206](#). The reference to regulation 5A(2)(ba) is to the modification made by paragraph 66 of Schedule 2 to these Regulations.

F⁹Income Tax (Earnings and Pensions) Act 2003

- F9** Sch. 2 para. 6A 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(4)** (with reg. 15(2))

6A. The Income Tax (Earnings and Pensions) Act 2003 is to be read as if—

- (a) in section 660(1) (taxable benefits: UK benefits), in Table A—
- (i) in the first column, after the entry for “Contributory employment and support allowance”, there were inserted a new entry “Contributory employment and support allowance (including any transitional addition to which a person is entitled in connection with that award)”;
 - (ii) in the second column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “WRA 2007”;
 - (iii) in the third column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “Section 1(2) (as modified and applied by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”))”, and
 - (iv) under the text inserted in the second and third columns by sub-paragraphs (ii) and (iii), there were inserted “Any provision made for Northern Ireland which corresponds to section 1(2) of WRA 2007 (as modified and applied by any provision made for Northern Ireland which corresponds to those contained in the 2010 Regulations)”;
- (b) in section 661(1) (taxable social security income), after “contributory employment and support allowance” there were inserted “contributory employment and support allowance (including any transitional addition to which a person is entitled in connection with that award),”; and
- (c) in section 677(1) (UK social security benefits wholly exempt from tax), in Table B—
- (i) in the first column, after the entry for “Income-related employment and support allowance”, there were inserted a new entry “Income-related employment and support allowance (including any transitional addition to which a person is entitled in connection with that award)”;
 - (ii) in the second column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “WRA 2007”;
 - (iii) in the third column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “Section 1(2) (as modified and applied by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”))”, and

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)

- (iv) under the text inserted in the second and third columns by sub-paragraphs (ii) and (iii), there were inserted “Any provision made for Northern Ireland which corresponds to section 1(2) of WRA 2007 (as modified and applied by any provision made for Northern Ireland which corresponds to those contained in the 2010 Regulations)”.]

PART 3

MODIFICATION OF THE 2008 REGULATIONS

[^{F57}]. Any reference to a claimant is to be read as if it were a reference to a person in relation to whom a conversion decision has been made under these Regulations.

F5 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)**

[^{F58}]. Part 2 (which makes provision about the assessment phase) does not apply, except for the purposes of applying regulation 147A of the 2008 Regulations.

F5 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)**

[^{F59}]. Part 3 (which makes provision about contribution conditions which do not apply by virtue of modifications contained in these Regulations) does not apply.

F5 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)**

[^{F510}]. [^{F10}Regulation 30 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) is to be read as if, for paragraph (3), there was substituted—

“(3) Paragraph (2)(b) does not apply where a claimant has made and is pursuing an appeal against a conversion decision that embodies a determination that the claimant does not have limited capability for work and that appeal has not yet been determined by the First-tier Tribunal.”.]

F5 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)**

F10 Sch. 2 para. 10 substituted (30.3.2015 with application in accordance with reg. 2) by [The Employment and Support Allowance \(Repeat Assessments and Pending Appeal Awards\) \(Amendment\) Regulations 2015 \(S.I. 2015/437\)](#), regs. 1, 7

[^{F511}]. Regulation 45 (exempt work) is to be read as if, for the definition of “specified work” in paragraph (10), there were substituted—

““specified work” means—

- (a) work done in accordance with paragraph (4); [^{F11}or]

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)

- (b) work done in accordance with regulation 17(4)(a) of the Social Security (Incapacity for Work) (General) Regulations 1995^{M8, F12} ...
- (c) ^{F12} ...”.

- F5** 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)**
- F11** Word in Sch. 2 para. 11 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(5)(a)** (with reg. 15(2))
- F12** Words in Sch. 2 para. 11 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(5)(b)** (with reg. 15(2))

Marginal Citations

- M8** [S.I. 1995/311](#). Regulation 17(1A) was in force from 8th April 2002 to 9th April 2006. Regulation 17 was substituted by [S.I. 2006/757](#) with effect from 10th April 2006.

[^{F5}12]. Regulation 67 (prescribed amounts) is to be read as if—

- (a) in paragraph (1), after sub-paragraph (c) there were added—
 - “(d) the amount of any transitional addition to which the person is entitled under regulation 11 of the [Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010](#).”;
- (b) in paragraph (2), for the words from “is the amount” to the end, there were substituted “are such of the following amounts as may apply in the person's case—
 - “(a) the amount determined in accordance with paragraph 1(1) of Schedule 4; and
 - (b) the amount of any transitional addition to which the person is entitled under regulation 10 of the [Employment and Support Allowance \(Transitional Provisions\) \(Existing Awards\) Regulations 2010](#).”.

- F5** 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)**

[^{F5}13]. Regulation 68 (polygamous marriages) is to be read as if, in paragraph (1), after sub-paragraph (d) there were added—

- “(e) the amount of any transitional addition to which the person is entitled under regulation 11 of the [Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010](#).”.

- F5** 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)**

[^{F5}14]. Regulation 75 (payments treated as not being payments to which section 3 of the 2007 Act applies) is to be read subject to the same modifications as are specified in paragraph 38 of Schedule 1 to these Regulations.

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)

F5 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)**

[^{F5}15]. In its application to a person who has made and is pursuing an appeal against a conversion decision which embodies a determination that the person does not have limited capability for work, Regulation 147A ^{M9} (claimants appealing a decision) is to be read as if there were substituted—

“Claimants appealing a decision

147A.—(1) This regulation applies where a person has made and is pursuing an appeal against a conversion decision which embodies a determination that the person does not have limited capability for work.

[^{F13}(1A) A person to whom this regulation applies who has made and is pursuing an appeal against a conversion decision in respect of an existing award of incapacity benefit or severe disablement allowance shall be treated as having satisfied the conditions in Part 1 of Schedule 1 to the Act (contributory allowance: conditions relating to national insurance).]

(2) Subject to paragraph (3), where this regulation applies, a determination of limited capability for work by the Secretary of State under regulation 19 shall not be made until the appeal is determined by the First-tier Tribunal.

(3) Paragraph (2) does not apply where either—

- (a) the claimant suffers from some specific disease or bodily or mental disablement from which the claimant was not suffering when entitlement began; or
- (b) a disease or bodily or mental disablement from which the claimant was suffering at that date has significantly worsened.

(4) Where this regulation applies and the Secretary of State makes a determination—

- (a) in a case to which paragraph (3) applies (including where the determination is not the first such determination) that the claimant does not have, or by virtue of regulation 22 or 23 is to be treated as not having, limited capability for work; or
- (b) subsequent to a determination that the claimant is to be treated as having limited capability for work by virtue of a provision of these Regulations other than regulation 30, that the claimant is no longer to be so treated,

this regulation and regulation 30 apply as if that determination had not been made.

(5) Where this regulation applies and—

- (a) the claimant is entitled to an employment and support allowance by virtue of being treated as having limited capability for work in accordance with regulation 30;
- (b) neither of the circumstances in paragraph (3) applies or, subsequent to the application of either of those circumstances, the claimant has been determined not to have limited capability for work; and
- (c) the claimant's appeal is dismissed, withdrawn^{F14}, struck out or has been discontinued in accordance with the provisions of regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal),]

the claimant is to be treated as not having limited capability for work [^{F15}with effect from the day specified in paragraph (5A).]

[^{F16}(5A) The day specified for the purposes of paragraph (5) is the first day of the benefit week following the date on which the Secretary of State either—

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)

- (a) receives the First-tier Tribunal’s notification that the appeal is dismissed, withdrawn or struck out, or
 - (b) discontinues action on an appeal in the circumstances to which regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal) applies.]
- (6) Where a claimant's appeal is successful, any entitlement to which this regulation applies shall terminate [^{F17}from the first day of the benefit week following the date on which the Secretary of State receives the First-tier Tribunal’s notification of that decision].”.

- F5** 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)**
- F13** Words in Sch. 2 para. 15 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(7)**
- F14** Words in Sch. 2 para. 15(5)(c) substituted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **27(4)(a)(i)(aa)**
- F15** Words in Sch. 2 para. 15(5) substituted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **27(4)(a)(i)(bb)**
- F16** Words in Sch. 2 para. 15 inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **27(4)(a)(ii)**
- F17** Words in Sch. 2 para. 15 substituted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **27(4)(a)(iii)**

Marginal Citations

- M9** Regulation 147A was inserted by [S.I. 2010/840](#), **regulation 9(15)**.

[^{F516}]. Schedule 5 (prescribed amounts in special case) is to be read as if any reference to the amount—

- (a) applicable to a person under regulation 67(1)(a); or
- (b) to which a person is entitled under regulation 67(1)(a),

included the amount of any transitional addition to which the person is entitled under regulation 67(1)(d) (see modification made by paragraph 52(a) of this Schedule).

- F5** 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)**

PART 4

MODIFICATION OF OTHER SECONDARY LEGISLATION

Social Security (Claims and Payments) Regulations 1987

[^{F517}]. The Social Security (Claims and Payments) Regulations 1987 ^{M10} are to be read subject to the modifications set out in paragraphs [^{F18}18 to 22] of this Schedule.

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)

<p>F5 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)</p> <p>F18 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)</p> <hr/> <p>Marginal Citations</p> <p>M10 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.</p>

[^{F5}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)^{M11}, there were inserted—

^{F19}...

[^{F20}(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 [^{F21}(k)], there were added—

[^{F22}(l)] 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.”.

<p>F5 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)</p> <p>F19 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)</p> <p>F20 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)</p> <p>F21 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)</p> <p>F22 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)</p>
--

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)

Marginal Citations

M11 Paragraph (j) was substituted by regulation 2 of [S.I. 2010/840](#).

[^{F5}19]. In regulation 26C ^{M12} (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.

F5 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

M12 Regulation 26C was inserted by [S.I. 2008/1554](#), **regulation 21**.

[^{F5}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”.

F5 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)**

[^{F5}21]. 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,

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)

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 [F23]12 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.”.

F5 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)**

F23 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)**

[F522]. Schedule 9B (deductions from benefit in respect of child support maintenance and payment to persons with care) ^{M13} 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

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)

(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.”.

F5 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

M13 Schedule 9B was inserted by [S.I. 2001/18](#), **regulation 2**. It has been amended but not in a way material to these Regulations.

^{F24}*Community Charges (Deductions from Income Support) (Scotland) Regulations 1989*

F24 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.

(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

^{F5}**23].** Regulation 1 of the *Community Charges (Deductions from Income Support) (No. 2) Regulations 1990* ^{M14} (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

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)

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.”

F5 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

M14 [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

[^{F5}24]. Regulation 1 of the *Fines (Deductions from Income Support) Regulations 1992* ^{M15} (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 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.”

F5 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\(1\)\(b\)](#)

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)

Marginal Citations

M15 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

[^{F5}25]. Regulation 1 of the Council Tax (Deductions from Income Support) Regulations 1993^{M16} (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.”.

F5 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

M16 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.

[^{F25}Social Security and Child Support (Decisions and Appeals) Regulations 1999

F25 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

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)

- “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*

[^{F5}26]. Regulation 5A of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001 ^{M17} (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—
- (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”.

F5 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

M17 [S.I. 2001/1323](#). Regulation 5A was inserted by [S.I. 2009/2206](#).

[^{F26}Social Security (Habitual Residence) Amendment Regulations 2004

F26 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

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)

(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; ”.]

F26 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)**

SCHEDULE 3

Regulation 16(2)(e)(iii)

List of regulations that apply after the conversion phase

The regulations referred to in regulation 16(2)(e)(iii) are—

The Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974 ^{M18}

The Social Security (Benefit) (Members of the Forces) Regulations 1975 ^{M19}

The Social Security (Airmen's Benefits) Regulations 1975 ^{M20}

The Social Security (Mariners' Benefits) Regulations 1975 ^{M21}

The Social Security (Credits) Regulations 1975 ^{M22}

The Social Security (Medical Evidence) Regulations 1976 ^{M23}

The Social Security (Overlapping Benefits) Regulations 1979 ^{M24}

The Statutory Sick Pay (General) Regulations 1982 ^{M25}

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)

The Statutory Maternity Pay (General) Regulations 1986 ^{M26}
The Income Support (General) Regulations 1987 ^{M27}
The Social Security (Claims and Payments) Regulations 1987 ^{M28}
The Social Fund (Recovery by Deductions from Benefits) Regulations 1988 ^{M29}
The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 ^{M30}
The Social Fund Cold Weather Payments (General) Regulations 1988 ^{M31}
The Community Charges (Deductions from Income Support) (No.2) Regulations 1990 ^{M32}
The Child Support (Maintenance Assessment Procedure) Regulations 1992 ^{M33}
The Child Support (Maintenance Assessments and Special Cases) Regulations 1992 ^{M34}
The Fines (Deductions from Income Support) Regulations 1992 ^{M35}
The Council Tax (Deductions from Income Support) Regulations 1993 ^{M36}
The Jobseeker's Allowance Regulations 1996 ^{M37}
The Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996 ^{M38}
[^{F27}The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996]
The Child Support Departure Direction and Consequential Amendments Regulations 1996 ^{M39}
The Social Security and Child Support (Decisions and Appeals) Regulations 1999 ^{M40}
The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 ^{M41}
The Social Fund Winter Fuel Payment Regulations 2000 ^{M42}
The Child Support (Maintenance Calculations and Special Cases) Regulations 2000 ^{M43}
The Child Support (Variations) Regulations 2000 ^{M44}
The Child Support (Maintenance Calculation Procedure) Regulations 2000 ^{M45}
The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 ^{M46}
The Children (Leaving Care) Social Security Benefits Regulations 2001 ^{M47}
The Social Security (Loss of Benefit) Regulations 2001 ^{M48}
The State Pension Credit Regulations 2002 ^{M49}
The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 ^{M50}
[^{F28}The Social Security (Habitual Residence) Amendment Regulations 2004]
The Age-Related Payments Regulations 2005 ^{M51}
The Social Fund Maternity and Funeral Expenses (General) Regulations 2005 ^{M52}

F27 Words in Sch. 3 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), **18(2)**

F28 Words in Sch. 3 inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **27(5)**

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)

Marginal Citations

- M18 S.I. 1974/2010.
- M19 S.I. 1975/493.
- M20 S.I. 1975/494.
- M21 S.I. 1975/529.
- M22 S.I. 1975/556.
- M23 S.I. 1976/615.
- M24 S.I. 1979/597.
- M25 S.I. 1982/894.
- M26 S.I. 1986/1960.
- M27 S.I. 1987/1967.
- M28 S.I. 1987/1968.
- M29 S.I. 1988/35.
- M30 S.I. 1988/664.
- M31 S.I. 1988/1724.
- M32 S.I. 1990/545.
- M33 S.I. 1992/1813.
- M34 S.I. 1992/1815.
- M35 S.I. 1992/2182.
- M36 S.I. 1993/494.
- M37 S.I. 1996/207.
- M38 S.I. 1996/940.
- M39 S.I. 1996/2907.
- M40 S.I. 1999/991.
- M41 S.I. 2000/636.
- M42 S.I. 2000/729.
- M43 S.I. 2001/155.
- M44 S.I. 2001/156.
- M45 S.I. 2001/157.
- M46 S.I. 2001/769.
- M47 S.I. 2001/3074.
- M48 S.I. 2001/4022.
- M49 S.I. 2002/1792.
- M50 S.I. 2003/1886.
- M51 S.I. 2005/1983.
- M52 S.I. 2005/3061.

F27 Words in Sch. 3 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), **18(2)**

F28 Words in Sch. 3 inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011](#) (S.I. 2011/2425), regs. 1(2), **27(5)**

Marginal Citations

- M18 S.I. 1974/2010.
- M19 S.I. 1975/493.
- M20 S.I. 1975/494.
- M21 S.I. 1975/529.
- M22 S.I. 1975/556.
- M23 S.I. 1976/615.
- M24 S.I. 1979/597.

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)

M25 S.I. 1982/894.
M26 S.I. 1986/1960.
M27 S.I. 1987/1967.
M28 S.I. 1987/1968.
M29 S.I. 1988/35.
M30 S.I. 1988/664.
M31 S.I. 1988/1724.
M32 S.I. 1990/545.
M33 S.I. 1992/1813.
M34 S.I. 1992/1815.
M35 S.I. 1992/2182.
M36 S.I. 1993/494.
M37 S.I. 1996/207.
M38 S.I. 1996/940.
M39 S.I. 1996/2907.
M40 S.I. 1999/991.
M41 S.I. 2000/636.
M42 S.I. 2000/729.
M43 S.I. 2001/155.
M44 S.I. 2001/156.
M45 S.I. 2001/157.
M46 S.I. 2001/769.
M47 S.I. 2001/3074.
M48 S.I. 2001/4022.
M49 S.I. 2002/1792.
M50 S.I. 2003/1886.
M51 S.I. 2005/1983.
M52 S.I. 2005/3061.

SCHEDULE 4

Regulation 26

Consequential amendments

The Social Security (Claims and Payments) Regulations 1987

[^{F29}1]. In paragraph 8 of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987 ^{M53} (deductions from benefit and direct payments to third parties), in sub-paragraph (4), for paragraph (a)(iv) substitute—

“(iv) in the case of an employment and support allowance, the applicable amount for the family as is awarded under paragraph (1)(a) and (b) of regulation 67 (prescribed amounts) or paragraph (1)(a) to (c) of regulation 68 (polygamous marriages) of the Employment and Support Allowance Regulations; or”.

F29 Sch. 4 para. 1 2: Sch. 4 para. 67 68 renumbered as Sch. 4 para. 1 2 (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)(c)**

Marginal Citations

M53 Paragraph 8(4)(a)(iv) of Schedule 9 was inserted by *S.I. 2008/1554*.

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)

^{F30}*The Jobseeker's Allowance Regulations 1996*

F30 Sch. 4 para. 1A inserted (31.1.2011) 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(3), **19(2)**

1A.—(1) In regulation 55(4) of the Jobseeker's Allowance Regulations 1996 (short periods of sickness), for the words after “allowance”, where it appears for the first time, to the end of that paragraph, substitute “or 8 weeks of the person's entitlement to statutory sick pay.”.

(2) In regulation 55A(1) of those Regulations (periods of sickness and persons receiving treatment outside Great Britain), omit “incapacity benefit,” and “, severe disablement allowance or income support”.

(3) In paragraph 20H of Schedule 1 to those Regulations (additional conditions for higher pensioner and disability premium) omit sub-paragraph (2).]

The Employment and Support Allowance (Transitional Provisions) Regulations ^{F31}2008]

F31 Word in Sch. 4 para. 2 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), **19(3)**

^{F29}2]. In regulation 2(3) of the Employment and Support Allowance (Transitional Provisions) Regulations 2008 ^{M54} (claim for existing award), omit the words “severe disablement allowance.”.

F29 Sch. 4 para. 1 2: Sch. 4 para. 67 68 renumbered as Sch. 4 para. 1 2 (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)(c)**

Marginal Citations

M54 [S.I. 2008/795](#). Regulation 2(2) was amended by [S.I. 2008/2783](#).

SCHEDULE 5

Regulation 27

Amendments to legislation relating to Housing Benefit and Council Tax Benefit

PART 1

AMENDMENT OF THE HOUSING BENEFIT REGULATIONS 2006

^{F32}1].—(1) The Housing Benefit Regulations 2006 ^{M55} are amended as follows.

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

(a) after the definition of “contributory employment and support allowance” insert—

““converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations;”;

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)*

- (b) after the definition of “Employment and Support Allowance Regulations” insert—
 - ““Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010;”.
- (3) In regulation 22 (applicable amounts) after paragraph (e) add—
 - “(f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 3 (transitional addition).”.
- (4) In regulation 23 (polygamous marriages) after paragraph (f) add—
 - “(g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 3 (transitional addition).”.
- (5) In Schedule 3 (applicable amounts)—
 - (a) for paragraph 1A substitute—
 - “**1A.** For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if—
 - (a) each of the conditions in paragraph 21 is satisfied in relation to the claimant personally; or
 - (b) the claimant personally is entitled to a converted employment and support allowance.”;
 - (b) after paragraph 21 insert—
 - “**21A.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 or 24 if the claimant or the claimant's partner is entitled to a converted employment and support allowance.”; and
 - (c) after Part 6 (amount of components) add—

“PART 7

Transitional Addition

- 27.—**(1) The claimant is entitled to the transitional addition calculated in accordance with paragraph 30 where the claimant or the claimant's partner (“the relevant person”)—
- (a) is entitled to a converted employment and support allowance; or
 - (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and—
 - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations; and
 - (ii) is not in receipt of an income-related employment and support allowance,
- unless the amount of the transitional addition calculated in accordance with paragraph 30 would be nil.
- (2) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
 - (b) the termination of the claimant's award of housing benefit;
 - (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;

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)

- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

28.—(1) This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the termination of the claimant's award of housing benefit, under—
 - (i) paragraph 27(2)(b);
 - (ii) sub-paragraph (3)(b) of this paragraph; or
 - (iii) paragraph 29(3)(b);
- (b) within 104 weeks of that termination but before 5th April 2020 the claimant again becomes entitled to housing benefit;
- (c) in the benefit week in which the claimant again becomes entitled to housing benefit the relevant person is entitled to an employment and support allowance which is not income-related;
- (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where claimant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (e) at the date on which the claimant again becomes entitled to housing benefit, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day on which the claimant again becomes entitled to housing benefit, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of housing benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

29.—(1) This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
 - (i) paragraph 27(2)(c);
 - (ii) paragraph 28(3)(c); or

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)*

- (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) either—
 - (i) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulation applies to the relevant person; or
 - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for housing benefit purposes, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of housing benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

PART 8

Amount of transitional addition

30.—(1) Subject to paragraph 31, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the relevant person—

- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.

(3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards)

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)

Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations—

- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.

(4) In this paragraph and paragraph 31, “basic amount” means the aggregate of such amounts as may apply in the claimant's case in accordance with regulation 22(a) to (e) or regulation 23(a) to (f).

31.—(1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the claimant's basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which Amount C exceeds Amount D.

(2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.

(3) Amount C is the basic amount that applies as a result of the increase.

(4) Amount D is the basic amount that applied immediately before the increase.”.

F32 Sch. 5 paras. 1-3: Sch. 5 para. 69-71 renumbered as Sch. 5 para. 1-3 (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)(d)**

Marginal Citations

M55 [S.I. 2006/213](#). Regulations 2, 21 and 22 were amended, and Parts 5 and 6 of Schedule 3 inserted, by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Paragraph 1A of Schedule 3 was inserted by [S.I. 2009/583](#).

PART 2

AMENDMENT OF THE COUNCIL TAX BENEFIT REGULATIONS 2006

[^{F32}2].—(1) The Council Tax Benefit Regulations 2006 ^{M56} are amended as follows.

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

(a) after the definition of “contributory employment and support allowance” insert—

““converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations;”;

(b) after the definition of “Employment and Support Allowance Regulations” insert—

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

(3) In regulation 12 (applicable amounts) after paragraph (e) add—

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)*

- “(f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 1 (transitional addition).”.
- (4) In regulation 13 (polygamous marriages) after paragraph (f) add—
- “(g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 1 (transitional addition).”.
- (5) In Schedule 1 (applicable amounts)—
- (a) for paragraph 1A substitute—
- “**1A.** For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if—
- (a) paragraph 21 is satisfied in relation to the claimant; or
- (b) the claimant is entitled to a converted employment and support allowance.”;
- (b) after paragraph 21 insert—
- “**21A.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 and 24 if the claimant or his partner is entitled to a converted employment and support allowance.”; and
- (c) after Part 6 (amount of components) add—

“PART 7

Transitional Addition

- 27.—(1)** The claimant is entitled to the transitional addition calculated in accordance with paragraph 30 where the claimant or the claimant's partner (“the relevant person”)—
- (a) is entitled to a converted employment and support allowance; or
- (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and—
- (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations; and
- (ii) is not in receipt of an income-related employment and support allowance, unless the amount of the transitional addition calculated in accordance with paragraph 30 would be nil.
- (2) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of council tax benefit;
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.
- 28.—(1)** This paragraph applies where—
- (a) the claimant's entitlement to a transitional addition, ends by virtue of the termination of the claimant's award of council tax benefit, under—

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)*

- (i) paragraph 27(2)(b);
 - (ii) sub-paragraph (3)(b) of this paragraph; or
 - (iii) paragraph 29(3)(b);
- (b) within 104 weeks of that termination but before 5th April 2020 the claimant again becomes entitled to council tax benefit;
 - (c) in the benefit week in which the claimant again becomes entitled to council tax benefit the relevant person is entitled to an employment and support allowance which is not income-related;
 - (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where claimant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
 - (e) at the date on which the claimant again becomes entitled to council tax benefit, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day on which the claimant again becomes entitled to council tax benefit, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of council tax benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

29.—(1) This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
 - (i) paragraph 27(2)(c);
 - (ii) paragraph 28(3)(c); or
 - (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) either—
 - (i) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulation applies to the relevant person; or

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)*

- (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
 - (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.
- (2) Where this paragraph applies, the claimant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for council tax benefit purposes, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.
- (3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
 - (b) the termination of the claimant's award of council tax benefit;
 - (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
 - (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
 - (e) 5th April 2020.

PART 8

Amount of transitional addition

- 30.—**(1) Subject to paragraph 31, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.
- (2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the relevant person—
- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
 - (b) Amount B is the basic amount that applied on that day as a result of that decision.
- (3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations—
- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
 - (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.

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)

(4) In this paragraph and paragraph 31, “basic amount” means the aggregate of such amounts as may apply in the claimant's case in accordance with regulation 12(a) to (e) or regulation 13(a) to (f).

31.—(1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the claimant's basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which Amount C exceeds Amount D.

(2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.

(3) Amount C is the basic amount that applies as a result of the increase.

(4) Amount D is the basic amount that applied immediately before the increase.”.

F32 Sch. 5 paras. 1-3: Sch. 5 para. 69-71 renumbered as Sch. 5 para. 1-3 (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)(d)**

Marginal Citations

M56 [S.I. 2006/215](#). The definitions of “contributory employment and support allowance” and “the Employment and Support Allowance Regulations” were inserted into regulation 2(1) by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Regulations 21 and 22 were amended, and Parts 5 and 6 of Schedule 3, inserted by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Paragraph 1A of Schedule 3 was inserted by [S.I. 2009/583](#).

PART 3

AMENDMENT OF THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (DECISIONS AND APPEALS) REGULATIONS 2001

[^{F32}3].—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 ^{M57} are amended as follows.

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

(a) in sub-paragraph (i) after “sub-paragraph (o)” insert “, (p) or (q) ”;

(b) after sub-paragraph (o) add—

“(p) where—

(i) the claimant has been awarded entitlement to housing benefit or council tax benefit;

(ii) the claimant or the claimant's partner has had an award of benefit converted to an employment and support allowance in accordance with regulation 5(2) (a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; and

(iii) subsequent to the first day of the period to which that entitlement to housing benefit or council tax benefit relates, the Secretary of State makes a decision to supersede the award of employment and support allowance to award a different component;

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)

- (q) where the claimant has been awarded entitlement to housing benefit or council tax benefit and subsequent to the first day of the period to which that entitlement relates—
- (i) a conversion decision of the kind set out in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect in respect of the claimant or the claimant's partner; or
 - (ii) the claimant is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”
- (3) In regulation 8 (date from which a decision superseding an earlier decision takes effect)—
- (a) in paragraph (14D)—
 - (i) after “regulation 7(2)(o)” insert “ or (p) ”; and
 - (ii) in sub-paragraph (a) after “regulation 7(2)(o)(iii)” insert “ or (p)(iii) ”; and
 - (b) after paragraph (14D) insert—

“(14E) Where a decision is superseded in accordance with regulation 7(2)(q) the decision shall take effect—

 - (a) where the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect on or after 1st April in any year but before 16th April of that year—
 - (i) from 1st April for a council tax benefit award;
 - (ii) from 1st April for a housing benefit award in which the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(b) or (c) of the Housing Benefit (State Pension Credit) Regulations;
 - (iii) from the first Monday in April for a housing benefit award to which sub-paragraph (a)(ii) does not apply;
 - (b) in any other case, from the day the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect.”.

F32 Sch. 5 paras. 1-3: Sch. 5 para. 69-71 renumbered as Sch. 5 para. 1-3 (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)(d)**

Marginal Citations

M57 [S.I. 2001/1002](#). Regulation 7(2)(i) was inserted by [S.I. 2003/2275](#) and amended by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Regulations 7(2)(o) and 8(14D) were inserted by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)).

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.