

SCHEDULES

SCHEDULE 2

Modification of enactments: after the conversion phase

PART 3

MODIFICATION OF THE 2008 REGULATIONS

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(1) (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.

(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- (c) the claimant’s appeal is dismissed, withdrawn or struck out,

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

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the claimant is to be treated as not having limited capability for work from the first day of the benefit week following the date on which the Secretary of State was notified by the First-tier Tribunal that the appeal is dismissed, withdrawn or struck out.

(6) Where a claimant's appeal is successful, any entitlement to which this regulation applies shall terminate on the first day of the benefit week following the date on which the Secretary of State was notified by the First-tier Tribunal of that decision."