
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 312

The Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010

PART 2

CONVERSION DECISIONS

Conversion decision that existing award does not qualify for conversion

15.—(1) [^{F1}Subject to paragraphs (2A) and (4), paragraphs (2), (3) and (6) apply] in any case where the conversion decision is a decision that a notified person's ("P") existing award or awards do not qualify for conversion into an employment and support allowance.

(2) P's entitlement to one or both of—

- (a) an existing award of incapacity benefit or severe disablement allowance; or
- (b) an existing award of income support, being an award made to a person incapable of work or disabled,

shall terminate by virtue of this paragraph immediately before the effective date of P's conversion decision.

[^{F2}(2A) Where P—

- (a) has an existing award of income support; and
- (b) would, on the effective date of P's conversion decision, remain entitled to income support by virtue of another provision of the Income Support (General) Regulations (Northern Ireland) 1987, were P not a person to whom regulation 6(4)(a) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, those Regulations (prescribed category of persons for the purposes of entitlement on grounds of incapacity or disability) applied,

P's existing award of income support shall only terminate under paragraph (2)(b) if P notifies the Department before the effective date of P's conversion decision that P does not wish to remain entitled to income support on that date.

(2B) Where paragraph (2A) applies, and P's existing award of income support does not terminate under paragraph (2)(b), any entitlement of P to a disability premium by virtue of paragraph 12(1)(b) of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987 (additional condition for the higher pensioner and disability premiums), shall terminate immediately before the effective date of P's conversion decision.]

(3) Where, immediately before that date, P is entitled to be credited with any earnings under regulation 8B(2)(a) of the Social Security (Credits) Regulations (Northern Ireland) 1975(1) (credits for incapacity for work or limited capability for work), P shall not be entitled to be so credited under that regulation on or after ^[F3]the effective date of P's conversion decision].

(4) Paragraph (5) applies where—

- (a) a conversion decision within the meaning of regulation 5(2)(b) (“the earlier conversion decision”) is made by virtue of either of the following provisions of the Employment and Support Allowance Regulations, as they apply by virtue of regulation 6—
 - (i) regulation 22(1) (failure to provide information in relation to limited capability for work), or
 - (ii) regulation 23(2) (failure to attend for a medical examination to determine whether the claimant has limited capability for work); and
- (b) after P is notified of the earlier conversion decision, the Department is satisfied, or where the conversion decision is appealed to the appeal tribunal, that tribunal determines, that P had good cause for failing to—
 - (i) provide the information requested, or
 - (ii) attend for or submit to the medical examination for which P was called.

(5) Where this paragraph applies—

- (a) the earlier conversion decision is treated as never having been made;
- (b) any entitlement of P—
 - (i) to an existing award which was terminated by virtue of paragraph (2), or
 - (ii) to be credited with earnings which was terminated by virtue of paragraph (3),

shall be reinstated with effect from the effective date of the earlier conversion decision;

- (c) the Department must make a conversion decision (“the new conversion decision”) in accordance with regulation 5 in relation to the existing award or awards to which P is entitled;
- (d) the notice issued under regulation 4 has effect in relation to that existing award or those existing awards; and
- (e) with the exception of regulation 4, the remaining provisions of this Part, including this regulation, apply to the new conversion decision.

^[F4](6) Where—

- (a) paragraph (2) applies; and
- (b) P is a member of a joint-claim couple,

any entitlement of that couple to a disability premium by virtue of paragraph 20H(1)(b) or (d) of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (additional conditions for higher pensioner and disability premium: severe disablement allowance or incapacity benefit) shall terminate immediately before the effective date of P's conversion decision.

(7) In this regulation—

- (a) paragraphs (2), (2A), (3) and (6) are subject to regulation 17 (changes of circumstances before the effective date); and
- (b) “joint-claim couple” has the same meaning as in Article 3(4) of the Jobseekers Order.]

(1) S.R. 1975 No. 113; regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430 and amended by regulation 2(2) of S.R. 2003 No. 151, regulation 7(6) of S.R. 2008 No. 286 and regulation 2(2) of S.R. 2010 No. 109

Changes to legislation: *There are currently no known outstanding effects for the The Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010, Section 15. (See end of Document for details)*

Textual Amendments

- F1** Words in [reg. 15\(1\)](#) substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/347\)](#), regs. 1(2), [2\(7\)\(a\)](#)
- F2** [Reg. 15\(2A\)\(2B\)](#) inserted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/347\)](#), regs. 1(2), [2\(7\)\(b\)](#)
- F3** Words in [reg. 15\(3\)](#) substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/347\)](#), regs. 1(2), [2\(7\)\(c\)](#)
- F4** [Reg. 15\(6\)\(7\)](#) substituted for [reg. 15\(6\)](#) (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/347\)](#), regs. 1(2), [2\(7\)\(d\)](#)

Commencement Information

- I1** [Reg. 15](#) in operation at 1.10.2010, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010, Section 15.