

SCHEDULE 1

Regulation 6(1)

Modification of statutory provisions: making conversion decisions

PART 1

MODIFICATION OF PART 1 OF THE ACT

1. Part 1 of the Act is to be read as if—
 - (a) any reference to a claimant were a reference to a notified person;
 - (b) in section 1—
 - (i) 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 paragraph (c) applies; or
 - (c) is entitled to an existing award of income support by virtue of paragraph 10 (disabled students) or 12 (deaf students) of Schedule 1B to the Income Support (General) Regulations (Northern Ireland) 1987 and satisfies the conditions set out in Part 2 of Schedule 1, with the exception of the condition in paragraph 6(1)(g).”
 - (ii) subsection (3)(e) were omitted;
 - (c) in sections 2(2)(a) and (3)(a) and 4(4)(a) and (5)(a) references to the assessment phase were references to the conversion phase;
 - (d) section 5 does not apply;
 - (e) in Schedule 1—
 - (i) paragraphs 1 to 5 were omitted, and
 - (ii) in paragraph 6, after sub-paragraph (1), there were inserted—

“(1A) Sub-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 and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (“the Existing Awards Regulations”).

(1B) In determining for the purposes of sub-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 Existing Awards Regulations shall be disregarded.

(1C) Where—

 - (a) P’s existing award would qualify for conversion under Part 2 of the Existing Awards Regulations but for the fact that the condition set out in sub-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 Existing Awards Regulations as a result of carrying out Step 2 as set out in regulation 8 of those Regulations,

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

Status: This is the original version (as it was originally made).

PART 2

MODIFICATION OF THE EMPLOYMENT AND SUPPORT ALLOWANCE REGULATIONS

2. The Employment and Support Allowance Regulations are to be read as if—
- (a) any reference to a claimant were a reference to the notified person;
 - (b) Parts 2 (the assessment phase) and 3 (conditions of entitlement – contributory allowance) do not apply;
 - (c) regulation 30 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) does not apply.
 - (d) in regulation 75 (payments treated as not being payments to which section 3 of the Act applies)—
 - (i) the existing provisions were renumbered as paragraph (1),
 - (ii) 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
 - (iii) 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 decision, section 30DD(1) of the Contributions and Benefits Act(1) (incapacity benefit: reduction for pension payments and PPF periodic payments)—
 - (a) did not apply to the notified person by virtue of regulation 25 of the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994(2) (person 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 18(1)(c) or (2)(c) of those Regulations(3) (persons formerly entitled to severe disablement allowance); or
 - (ii) Article 3 of the Welfare Reform and Pensions (1999 Order) (Commencement No. 6 and Transitional and Savings Provisions) Order (Northern Ireland) 2000(4) (transitional provision in relation to incapacity benefit).”.
 - (e) regulation 144 (waiting days) does not apply.

PART 3

MODIFICATION OF THE CLAIMS AND PAYMENTS REGULATIONS

3. Regulation 32 of the Claims and Payments Regulations(5) (information to be given and changes to be notified) is to be read as if it were modified so as to enable the Department to require from any person entitled to an existing award—

(1) Section 30DD was inserted by Article 60 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph (1) was substituted by paragraph 1(2) of the Schedule to [S.R. 2006 No. 37](#)

(2) [S.R. 1994 No. 461](#); regulation 25 was inserted by regulation 2(5) of [S.R. 2000 No. 404](#)

(3) Regulation 18(1) and (2) was amended by regulation 3 of [S.R. 2002 No. 86](#)

(4) [S.R. 2000 No. 332 \(C. 14\)](#); Article 3 was amended by Article 3 of [S.R. 2001 No. 114 \(C. 4\)](#)

(5) Regulation 32 was amended by regulation 5(4) of [S.R. 1995 No. 367](#), paragraph 2(8) of Schedule 2 to [S.R. 2001 No. 175](#), regulation 11 of [S.R. 2003 No. 191](#), regulation 2 of [S.R. 2003 No. 224](#), regulation 2(7) of [S.R. 2003 No. 317](#), regulation 4 of [S.R. 2003 No. 421](#), regulation 2 of [S.R. 2003 No. 527](#), regulation 3 of [S.R. 2008 No. 262](#) and regulation 13(14) of [S.R. 2008 No. 286](#)

- (a) under paragraph (1), information or evidence for determining whether a decision on 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.