

SCHEDULE 2

Modification of statutory provisions: after the conversion phase

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 person in relation to whom a conversion decision has been made under these Regulations;

(b) in section 1—

[^{F1}(i) 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 Existing Awards Regulations, 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 (Northern Ireland) 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]

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

“(7) In this Part—

“contributory allowance” means an employment and support allowance to which a person is entitled by virtue of the Existing Awards Regulations 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 Existing Awards Regulations which was based on an award of income support to which the person was entitled.”;

[^{F2}(ba) (i) 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 paragraph (ii),

(ii) section 1A is to be read as if there were substituted—

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, PART 1. (See end of Document for details)*

“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 and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010.

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

(a) 365 days, or

(b) if the Department 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) (amount of contributory allowance).

(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 operation of this section are to be counted (as well as those occurring afterwards).”]

(c) in section 2—

(i) in subsection (1)(a), after the words “such amount” there were inserted “, or the aggregate of such amounts,”, and

(ii) except for the purposes of applying regulation 147A of the Employment and Support Allowance Regulations⁽¹⁾ (claimants appealing a decision) in subsections (2)(a) and (3)(a), references to the assessment phase were references to the conversion phase;

(d) in section 4(4)(a) and (5)(a), except for the purposes of applying regulation 147A of the Employment and Support Allowance Regulations as modified by paragraph 4(i) of this Schedule, references to the assessment phase were to the conversion phase.

[^{F3}(e) in section 24(1) after the definition of “entitled” there were inserted—

““the Existing Awards Regulations” means the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010;”;

(f) in Schedule 1, 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 Existing Awards Regulations to an employment and support allowance which is attributable to an income-related allowance.

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

(1) Regulation 147A was inserted by regulation 9(15) of [S.R. 2010 No. 200](#)

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, PART 1. (See end of Document for details)*

(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 Existing Awards 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.”.]

Textual Amendments

- F1** Sch. 2 para. 1(b)(i) 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(14)(a)**
- F2** Sch. 2 para. 1(ba) inserted (28.11.2016) by [The Employment and Support Allowance \(Duration of Contributory Allowance\) \(Consequential Amendments\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/175\)](#), regs. 1(1), **9(4)**
- F3** Sch. 2 para. 1(e)(f) 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(14)(b)**

Commencement Information

- I1** Sch. 2 para. 1 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, PART 1.