
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 347

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

Amendment of the Employment and Support Allowance Regulations

6.—(1) The Employment and Support Allowance Regulations are amended in accordance with the following provisions of this regulation.

(2) In regulation 148 (work or training beneficiaries)—

(a) in paragraph (1)—

(i) for sub-paragraph (a) substitute—

“(a) had limited capability for work—

(i) for more than 13 weeks in the most recent past period of limited capability for work, or

(ii) for 13 weeks or less in the most recent past period of limited capability for work where the claimant became entitled to an award of an employment and support allowance by virtue of a conversion decision which took effect from the commencement of the most recent past period of limited capability for work;”, and

(ii) for sub-paragraph (c) substitute—

“(c) became engaged in work or training within one month of so ceasing to be entitled.”; and

(b) in paragraph (3) after the definition of “allowance or advantage” insert—

““conversion decision” has the meaning given in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010;”.

(3) Subject to paragraph (4), in regulation 149 (linking rules – limited capability for work)—

(a) for paragraph (1) substitute—

“(1) Where the circumstances in paragraph (2) apply, a work or training beneficiary is to be treated as having limited capability for work from the first day within the linking term in respect of which that beneficiary claims an employment and support allowance.”; and

(b) in paragraph (2)(b) for “in the most recent past period of limited capability for work, it had been determined that the work or training beneficiary had limited capability for work” substitute “it had been determined that the work or training beneficiary had limited capability for work in the most recent past period of limited capability for work or where that determination was embodied in a conversion decision”;

(4) Paragraph (3) applies only in relation to the following cases—

(a) a claim for an employment and support allowance made on or after 1st November 2010, whether or not the claim is in respect of a period commencing before that date, and

- (b) a claim for an advance award under regulation 13 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽¹⁾—
 - (i) made before 1st November 2010, and
 - (ii) in respect of a period beginning on or after that date.
- (5) Subject to paragraph (6), for regulation 150 (linking rules – limited capability for work-related activity) substitute—

“Linking Rules – limited capability for work-related activity

150. Where a work or training beneficiary was a member of the support group when the most recent past period of limited capability for work came to an end, that work or training beneficiary is to be treated as having limited capability for work-related activity from the first day within the linking term in respect of which that beneficiary claims an employment and support allowance.”.

- (6) Paragraph (5) applies only in relation to the following cases—
 - (a) a claim for an employment and support allowance made on or after 1st November 2010, whether or not the claim is in respect of a period commencing before that date; and
 - (b) a claim for an advance award under regulation 13 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987—
 - (i) made before 1st November 2010, and
 - (ii) in respect of a period beginning on or after that date.

(1) S.R. 1987 No. 465; regulation 13 was amended by regulation 6(4) of S.R. 1991 No. 488, regulation 6 of S.R. 1992 No. 7, regulation 7(6) of S.R. 1992 No. 83, regulation 2(3) of S.R. 1994 No. 345, Article 9(2) and (5) of S.R. 1999 No. 472 (C.36), regulation 6(1) of S.R. 2003 No. 191, regulation 2(5) of S.R. 2005 No. 299, regulation 2(2) of S.R. 2007 No. 263 and regulation 13(10) of S.R. 2008 No. 286