
STATUTORY RULES OF NORTHERN IRELAND

2013 No. 2

**The Employment and Support Allowance
(Amendment) Regulations (Northern Ireland) 2013**

Application, transitional and savings provisions

- 2.—(1) Subject to paragraphs (2) and (3), these Regulations apply to—
- (a) a person who makes a claim for an employment and support allowance on or after the commencement date (including a claim in respect of any period beginning before that date);
 - (b) a person who made a claim for an employment and support allowance before the commencement date in respect of whom a determination is made on or after that date—
 - (i) as to whether that person has or is to be treated as having limited capability for work under Part 5 of the Employment and Support Allowance Regulations, or
 - (ii) as to whether that person has or is to be treated as having limited capability for work-related activity under Part 6 of those Regulations;
 - (c) a person who is entitled to an employment and support allowance immediately before the commencement date in respect of whom, on or after that date—
 - (i) the Department determines afresh under regulation 19(7) of the Employment and Support Allowance Regulations whether the person has or is to be treated as having limited capability for work,
 - (ii) the Department determines afresh under regulation 34(4) of the Employment and Support Allowance Regulations whether the person has or is to be treated as having limited capability for work-related activity; and
 - (d) a notified person within the meaning of regulation 4 of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010^{MI} in respect of whom a determination is made on or after the commencement date as to whether that person—
 - (i) has or is to be treated as having limited capability for work under Part 5 of the Employment and Support Allowance Regulations, or
 - (ii) is to be treated as having limited capability for work-related activity under Part 6 of those Regulations.

(2) Where a person has been issued with a questionnaire which relates to the provisions of Schedule 2 of the Employment and Support Allowance Regulations as they had effect immediately before the commencement date, regulation 5 does not apply for the purposes of making a determination on or after that date as to that person's limited capability for work under Part 5 of the Employment and Support Allowance Regulations and, for those purposes, the provisions of Schedule 2 of the Employment and Support Allowance Regulations are to continue to apply in respect of that person as they had effect immediately before the commencement date.

(3) Where a person has been issued with a questionnaire which relates to the provisions of Schedule 3 of the Employment and Support Allowance Regulations as they had effect immediately

before the commencement date, regulation 6 does not apply for the purposes of making a determination on or after that date as to that person's limited capability for work under Part 6 of the Employment and Support Allowance Regulations and, for those purposes, the provisions of Schedule 3 of the Employment and Support Allowance Regulations are to continue to apply in respect of that person as they had effect immediately before the commencement date.

(4) The provisions of paragraphs (2) to (3) do not apply to any determination made in respect of a person on or after 28th July 2013.

Marginal Citations

M1 S.R. [2010 No. 312](#). Regulation 4 provides that a notified person is a person to whom a notice is issued. A notice may be issued to any person who is entitled to an existing award. The issue of the notice begins the conversion phase in relation to that person with effect from the date of issue. An existing award is an award of incapacity benefit, severe disablement allowance, or income support on the grounds of incapacity (as defined by paragraph 11 of Schedule 4 to the [Welfare Reform Act \(Northern Ireland\) 2007 \(2007 c. 2\)](#) (N.I.))

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance (Amendment) Regulations (Northern Ireland) 2013, Section 2.