

## SCHEDULE 2

Regulation 4(2)

### Employment and Support Allowance: transitional and savings provisions

#### **Transitional and savings provisions: General**

1.—(1) The amendments made by regulations 2 and 3 of, and paragraphs 1 to 7 of Schedule 1 to, these Regulations and by Article 9(1) to (3) of the Welfare Reform and Work (Northern Ireland) Order 2016 (which amend sections 2 and 4 of the Welfare Reform Act (Northern Ireland) 2007) do not apply where any of the circumstances in paragraphs 2 to 7 apply.

(2) In this Schedule—

“assessment phase” has the same meaning as in the Welfare Reform Act (Northern Ireland) 2007(1);

“a claim” means a claim for an employment and support allowance in accordance with regulations 4ZC, 4F, 4G and 4H of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(2) or regulations 12 to 16 of the Universal Credit, Personal Independent Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(3);

“employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007;

“ESA Regulations 2008” means the Employment and Support Allowance Regulations (Northern Ireland) 2008(4); and

“ESA Regulations 2016” means the Employment and Support Allowance Regulations (Northern Ireland) 2016(5).

#### **Claimants who have made a claim for employment and support allowance before 3rd April 2017**

2. The first circumstance is where the claimant has made or is treated as having made a claim for an employment and support allowance before 3rd April 2017 and that claim results in an award of employment and support allowance.

#### **Claimants who have been found to have limited capability for work before 3rd April 2017**

3. The second circumstance is where the claimant’s current period of limited capability for work began on or after 3rd April 2017 and is treated as a continuation of an earlier period of limited capability for work which began before 3rd April 2017 by virtue of—

- (a) regulation 145 of the ESA Regulations 2008; or
- (b) regulation 86 of the ESA Regulations 2016.

#### **Claimants on Incapacity Benefits who have or will become notified persons**

4. The third circumstance is where the claimant is or becomes a notified person within the meaning of regulation 4 of the Employment and Support Allowance (Transitional Provisions and

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(1) 2007 c.2

(2) S.R. 1987 No. 465; relevant amending Rules are S.R. 2006 No. 203 and S.R. 2008 No. 286; regulation 4ZC was inserted by Article 2(3) of S.R. 2006 No. 203; regulations 4F to H were inserted by regulation 13(5) of S.R. 2008 No. 286

(3) S.R. 2016 No. 220

(4) S.R. 2008 No. 280; relevant amending Regulation is S.R. 2016 No. 176

(5) S.R. 2016 No. 219

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

Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010<sup>(6)</sup> (the notice commencing the conversion phase) and a determination is effective as to whether that person—

- (a) has or is to be treated as having limited capability for work under Part 5 of the ESA Regulations 2008;
- (b) has or is to be treated as having limited capability for work under Part 5 of the ESA Regulations 2016;
- (c) has or is to be treated as having limited capability for work-related activity under Part 6 of the ESA Regulations 2008; or
- (d) has or is to be treated as having limited capability for work-related activity under Part 6 of the ESA Regulations 2016.

#### **Claimants where their award becomes payable before 3rd April 2017**

5. The fourth circumstance is where the claimant becomes entitled to an employment and support allowance before 3rd April 2017 by virtue of—

- (a) regulation 19(1) and paragraph 16 of Schedule 4 to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987<sup>(7)</sup>; or
- (b) regulation 27 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016<sup>(8)</sup>.

#### **Claimants where their assessment phase begins before 3rd April 2017**

6. The fifth circumstance is where the first day of the claimant's assessment phase began before 3rd April 2017 by virtue of—

- (a) regulation 5 of the ESA Regulations 2008; or
- (b) regulation 6 of the ESA Regulations 2016.

#### **Claimants where they have been entitled to maternity allowance**

7. The sixth circumstance is where—

- (a) a claimant was entitled to a maternity allowance under section 35 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(9)</sup> and the end of that award is within 12 weeks beginning with the date that a claim for an employment and support allowance is made; and
- (b) immediately prior to their entitlement to a maternity allowance beginning the claimant was previously entitled to an employment and support allowance before 3rd April 2017.

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<sup>(6)</sup> S.R. 2010 No. 312

<sup>(7)</sup> Regulation 19(1) was substituted by regulation 3(7) of S.R. 1997 No. 156; paragraph 16 of Schedule 4 was added by regulation 13(17) of S.R. 2008 No. 286

<sup>(8)</sup> S.R. 2016 No. 220

<sup>(9)</sup> 1992 (c. 7); section 35 was amended by Article 4(a) of the Still-Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992/1310(N.I. 10)), regulation 2(3) of S.R. 1994 No. 176, Article 50(1) and (2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 2 of Schedule 1 to the Social Security Act (Northern Ireland) 2002 (c. 10) and Article 6(1) to (3) of the Work and Families Act (Northern Ireland) 2015 (c. 1)