
STATUTORY INSTRUMENTS

2008 No. 1554

**The Employment and Support Allowance
(Consequential Provisions) (No. 2) Regulations 2008**

PART 2

INCOME-RELATED BENEFITS

Amendment of the Income Support (General) Regulations 1987

- 2.—**(1) The Income Support (General) Regulations 1987 ^{M1} are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “the benefit Acts”^{M2} for “and the Jobseekers Act 1995”^{M3} substitute “, the Jobseekers Act 1995 and Part 1 of the Welfare Reform Act”;
 - (b) after the definition of “the Contributions and Benefits Act”^{M4} insert—
““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
 - (c) after the definition of “employment”^{M5} insert—
““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008 ^{M6};”;
 - (d) after the definition of “Immigration and Asylum Act”^{M7} insert—
““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
 - (e) after the definition of “water charges”^{M8} insert—
““the Welfare Reform Act” means the Welfare Reform Act 2007;”.
- (3) In regulation 6(5) ^{M9} (persons not treated as engaged in remunerative work)—
- (a) in sub-paragraph (b) for “or an income-based jobseeker's allowance” substitute “, an income-based jobseeker's allowance or an income-related employment and support allowance”; and
 - (b) in sub-paragraph (c)—
 - (i) after (i) omit “or”; and
 - (ii) after (ii) for “and” substitute—
“or
 - (iii) an amount determined in accordance with Schedule 6 to the Employment and Support Allowance Regulations (housing costs) as applicable to him in respect of housing costs which qualify under paragraphs 16 to 18 of that Schedule; and”.
- (4) In regulation 14(2) ^{M10} (persons of a prescribed description)—

- (a) after sub-paragraph (b) omit “or”; and
- (b) after sub-paragraph (c) add—
 - “or
 - (d) entitled to an employment and support allowance or would, but for paragraph 6(1) (d) of Schedule 1 to the Welfare Reform Act (conditions of entitlement to income-related employment and support allowance), be so entitled.”.
- (5) In regulation 31(2) ^{M11} (date on which income is treated as paid) for “or severe disablement allowance” substitute “severe disablement allowance or employment and support allowance”.
- (6) In regulation 32(4)(b) ^{M12} (calculation of weekly amount of income) for “or jobseeker's allowance” substitute “, jobseeker's allowance or employment and support allowance”.
- (7) In regulation 40 (calculation of income other than earnings) after paragraph (5) ^{M13} add—
 - “(6) Where the claimant—
 - (a) is a member of a couple;
 - (b) his partner is receiving a contributory employment and support allowance; and
 - (c) that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations,
 the amount of that benefit to be taken into account is the amount as if it had not been so reduced.”.
- (8) In regulation 72 (assessment of income and capital in urgent cases)—
 - (a) in paragraph (1)(a)(ii) ^{M14} after “1996” insert “ or of employment and support allowance under regulation 164 of the Employment and Support Allowance Regulations ”; and
 - (b) in paragraph (2) ^{M15} after “these Regulations” insert “ , regulation 164 of the Employment and Support Allowance Regulations ”.
- (9) In regulation 73(3) ^{M16} (amount of income support payable) in the definition of “B” for “or severe disablement allowance” substitute “severe disablement allowance or employment and support allowance”.
- (10) In regulation 75 ^{M17} (modifications in the calculation of income)—
 - (a) in sub-paragraph (b) for “or severe disablement allowance” substitute “severe disablement allowance or employment and support allowance”;
 - (b) in sub-paragraph (e) for “or severe disablement allowance” substitute “ , severe disablement allowance or employment and support allowance ”; and
 - (c) in sub-paragraph (f) for “or severe disablement allowance” substitute “severe disablement allowance or employment and support allowance”.
- (11) In Schedule 3 (housing costs)—
 - (a) in paragraph 1 (housing costs)—
 - (i) in sub-paragraph (3) ^{M18} after (c) add—
 - “(d) who is in receipt of an employment and support allowance which includes an amount under section 2(2) or (3) or 4(4) or (5) of the Welfare Reform Act (components).”; and
 - (ii) in sub-paragraph (4) after “disqualification etc)” add “ or disqualified for receiving employment and support allowance or treated as not having limited capability for work in accordance with regulations made under section 18 of the Welfare Reform Act (disqualification) ”;

- (b) in paragraph 1A ^{M19} (previous entitlement to income-based jobseeker's allowance or state pension credit)—
 - (i) in the heading after “allowance” insert “ , income-related employment and support allowance ”;
 - (ii) after “income-based jobseeker's allowance” each time it occurs insert “ or income-related employment and support allowance ”; and
 - (iii) in sub-paragraph (1)(a) after “1996” add “ or paragraphs 16 to 18 of Schedule 6 to the Employment and Support Allowance Regulations ”;
 - (c) in paragraph 4(4) (housing costs not met) after “income support” each time it occurs insert “ or income-related employment and support allowance ”;
 - (d) in paragraph 6(1B) ^{M20} (existing housing costs) for “or state pension credit” substitute “ , state pension credit or income-related employment and support allowance ”;
 - (e) in paragraph 8(1B) ^{M21} (new housing costs) for “or state pension credit” substitute “ , state pension credit or income-related employment and support allowance ”;
 - (f) in paragraph 14 (linking rule)—
 - (i) in sub-paragraph (5)(a) for “or incapacity benefit” substitute “ , incapacity benefit or contributory employment and support allowance ”; and
 - (ii) after sub-paragraph (14) add—

“(15) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where [^{F1}a claimant, a claimant’s partner or] a claimant's former partner was entitled to income-related employment and support allowance, any reference to income support in this Schedule shall be taken to include also a reference to income-related employment and support allowance.”; and
 - (g) in paragraph 18(7) (non-dependant deductions) after paragraph (h) add—
 - “(i) he is aged less than 25 and is in receipt of employment and support allowance which does not include an amount under section ^{F2}... 4(4) or (5) of the Welfare Reform Act (components).”.
- (12) In Schedule 7 (applicable amounts in special cases) in paragraph 19A ^{M22} (persons who have commenced remunerative work) in column 2—
- (a) in sub-paragraph (1)—
 - (i) in paragraph (a)—
 - (aa) after (i) omit “or”; and
 - (bb) after (ii) add—

“or
 - (iii) as the case may be, Schedule 6 to the Employment and Support Allowance Regulations (housing costs),”
 - (ii) in paragraph (b) after “income support” the first time it occurs, insert “ , income-related employment and support allowance ”.
- (13) In paragraph 4(7) ^{M23} of Schedule 8 (sums to be disregarded in the calculation of earnings) after “income support” each time it occurs insert “ or employment and support allowance ”.
- (14) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 7(b) ^{M24} for “or jobseeker's allowance” substitute “ , jobseeker's allowance or employment and support allowance. ”; and

- (b) in paragraph 13(1)(a) ^{M25} for “or severe disablement allowance” substitute “ , severe disablement allowance or an employment and support allowance ”.
- (15) In paragraph 7 ^{M26} of Schedule 10 (capital to be disregarded)—
- (a) in sub-paragraph (1)(b) after “income-related benefit” insert “ , an income-related employment and support allowance ”; and
- (b) in sub-paragraph (3)—
- (i) in paragraph (a) after “income support” insert “ , an income-related employment and support allowance ”; and
- (ii) in paragraph (b) after “income support” insert “ , an income-related employment and support allowance ”.

- F1** Words in [reg. 2\(11\)\(f\)\(ii\)](#) inserted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), [regs. 1\(2\)](#), [41\(2\)\(a\)](#)
- F2** Words in [reg. 2\(11\)\(g\)](#) omitted (27.10.2008) by virtue of [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), [regs. 1\(2\)](#), [41\(2\)\(b\)](#)

Marginal Citations

- M1** [S.I. 1987/1967](#).
- M2** Definition was inserted by [S.I. 1996/206](#).
- M3** [1995 c. 18](#).
- M4** Definition was inserted by [S.I. 1993/315](#).
- M5** Definition inserted by [S.I. 1988/1445](#).
- M6** [S.I. 2008/794](#).
- M7** Definition was inserted by [S.I. 2000/636](#).
- M8** Definition was inserted by [S.I. 1990/547](#) and amended by [S.I. 1990/1776](#) and [1993/315](#).
- M9** Paragraph (5) was inserted by [S.I. 2001/488](#) and amended by [S.I. 2007/3183](#).
- M10** Paragraph (2) was amended by [S.I.2001/3070](#) and [2006/718](#).
- M11** Paragraph (2) was amended by [S.I. 1988/663](#) and [1445](#), [1995/482](#) and [1996/206](#).
- M12** Paragraph (4) was amended by [S.I. 1988/663](#) and [1445](#), [1995/482](#), [1996/206](#).
- M13** Paragraph (5) was inserted by [S.I. 2000/636](#).
- M14** Sub-paragraph (a) was substituted by [S.I. 1998/563](#).
- M15** Paragraph (2) was amended by [S.I. 1988/1445](#) and [2022](#) and [S.I. 2008/698](#).
- M16** Regulation 73 was inserted by [S.I. 1988/663](#) and amended by [S.I. 1988/1445](#), [1995/482](#), [1996/206](#) and [2001/3767](#).
- M17** Regulation 75 was inserted by [S.I. 1988/663](#) and amended by [S.I. 1988/1445](#), [1995/482](#) and [1996/206](#).
- M18** Sub-paragraph (3) was amended by [S.I.1995/2927](#) and [2006/2378](#).
- M19** Paragraph 1A was inserted by [S.I. 1997/2305](#) and amended by [S.I. 2007/3183](#).
- M20** Sub-paragraph (1B) was inserted by [S.I. 1997/2305](#) and amended by [S.I. 2002/3019](#).
- M21** Sub-paragraph (1B) was inserted by [S.I. 1997/2305](#) and amended by [S.I. 2002/3019](#).
- M22** Paragraph 19A was inserted by [S.I. 2001/488](#) and amended by [S.I. 2001/3767](#) and [2002/398](#).
- M23** Paragraph 4 was substituted by [S.I. 1989/534](#) and sub-paragraph (7) was substituted by [S.I. 1989/1678](#) and amended by [S.I. 1991/387](#) and [2002/3019](#).
- M24** Paragraph 7(b) was amended by [S.I. 1998/563](#).
- M25** Paragraph 13 was substituted by [S.I. 2004/565](#).
- M26** Paragraph 7 was amended by [S.I. 1991/2742](#), [1996/206](#), [2001/2333](#), [2002/2380](#), [2003/455](#) and [2005/574](#).

Amendment of the Jobseeker's Allowance Regulations 1996

- 3.—(1) The Jobseeker's Allowance Regulations 1996 ^{M27} are amended as follows.

- (2) In regulation 1(3) (citation, commencement and interpretation)—
- (a) after the definition of “the Eileen Trust” insert—
- ““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;” and
- (b) after the definition of “week”^{M28} insert—
- ““the Welfare Reform Act” means the Welfare Reform Act 2007;”.
- (3) In regulation 11(2) (part-time students) for “or incapacity benefit” each time it occurs substitute “ , incapacity benefit or employment and support allowance ”.
- (4) In regulation 14(1) (circumstances in which a person is to be treated as available)—
- (a) in paragraphs (I) and (II) ^{M29} after “capable of work” insert “ or as not having limited capability for work ”; and
- (b) in paragraph (o)(ii) after “incapacity benefit” insert “ , employment and support allowance ”.
- (5) In regulation 19(1) ^{M30} (circumstances in which a person is to be treated as actively seeking employment) in sub-paragraphs (I) and (II) after “capable of work” insert “ or as not having limited capability for work ”.
- (6) In regulation 46(1) ^{M31} (waiting days)—
- (a) in sub-paragraph (a) after “incapacity benefit” insert “ , employment and support allowance ”; and
- (b) in sub-paragraph (d) after “incapacity benefit” insert “ , employment and support allowance ”.
- (7) In regulation 48(2) ^{M32} (linking periods) after sub-paragraph (b) insert—
- “(bb) any period throughout which the claimant has, or is treated as having, limited capability for work for the purposes of Part 1 of the Welfare Reform Act;”.
- (8) In regulation 49 (persons approaching retirement and the jobseeking period)—
- (a) in paragraph (2) ^{M33} for “(3) and (4)” substitute “ (3), (4) and (4A) ”; and
- (b) after paragraph (4) insert—
- “(4A) Any day which, for the purposes of Part 1 of the Welfare Reform Act, is a day where the person has limited capability for work falling within a period of limited capability for work shall not be a day on which the person is treated as satisfying the conditions referred to in paragraph (2).”.
- (9) In regulation 55 (short periods of sickness)—
- (a) in paragraph (1) ^{M34}—
- (i) in sub-paragraph (c) after “capable of work” insert “ or not having limited capability for work ”;
- (ii) after “capable of work” the second time it occurs insert “ or as not having limited capability for work ”; and
- (iii) after “incapacity benefit” insert “ , employment and support allowance, ”; and
- (b) in paragraph (4) after “within” insert “ 12 weeks of an entitlement of his to employment and support allowance or ”.
- (10) In regulation 55A(1) ^{M35} (periods of sickness and persons receiving treatment outside Great Britain)—

- (a) in sub-paragraph (d) after “capable of work” insert “ or not having limited capability for work ”;
 - (b) after “capable of work” the second time it occurs insert “ or as not having limited capability for work ”; and
 - (c) after “incapacity benefit” insert “ , employment and support allowance ”.
- (11) In regulation 61 (other young persons in prescribed circumstances)—
- (a) in paragraph (1) ^{M36} after sub-paragraph (f) add—
 - “(g) who has limited capability for work for the purposes of Part 1 of the Welfare Reform Act.”; and
 - (b) in paragraph (2)(b) ^{M37} for “1(b) or (c)” each time it occurs substitute “ 1(b), (c) or (g) ”.
- (12) In regulation 76(2) ^{M38} (persons of a prescribed description)—
- (a) in sub-paragraph (d) after “applies” add—
 - “or
 - (e) entitled to an income-related employment and support allowance or would, but for paragraph 6(1)(d) of Schedule 1 to the Welfare Reform Act (conditions of entitlement to income-related employment and support allowance), be so entitled.”.
- (13) In regulation 78(6) ^{M39} (circumstances in which a person is to be treated as being or not being a member of the household) after “income support” insert “ or an income-related employment and support allowance ”.
- (14) In regulation 96(2) (date on which income is treated as paid) for “or jobseeker's allowance” substitute “ , jobseeker's allowance or employment and support allowance ”.
- (15) In regulation 97(4)(b) (calculation of weekly amount of income) for “or income support” substitute “ , income support or employment and support allowance ”.
- (16) In regulation 103 (calculation of income other than earnings) after paragraph (5A) ^{M40} insert—
- “(5B) Where the claimant—
 - (a) is a member of a couple;
 - (b) his partner is receiving a contributory employment and support allowance; and
 - (c) that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations,
 the amount of that benefit to be taken into account is the amount as if it had not been reduced.”.
- (17) In regulation 140(3) ^{M41} (meaning of “person in hardship”) after “income support” insert “ or an income-related employment and support allowance ”.
- (18) In regulation 146A(3) ^{M42} (meaning of “couple in hardship”) after “income support” add “ or an employment and support allowance ”.
- (19) In regulation 149(1)(a)(ii) (assessment of income and capital in urgent cases) after “Income Support Regulations” insert “ or of employment and support allowance under regulation 164 of the Employment and Support Allowance Regulations ”.
- (20) In regulation 150(1)(b) (amount of jobseeker's allowance payable) in the definition of “B” for “or severe disablement allowance” substitute “ , severe disablement allowance or employment and support allowance ”.

(21) In regulation 153(b) ^{M43} (modification in the calculation of income) after “Benefits Act” insert “ or employment and support allowance ”.

(22) In regulation 171(b) ^{M44} (trade disputes: exemptions from section 15 of the Act)—

(a) after paragraph (i) omit “or”; and

(b) after paragraph (ii) add—

“or

(iii) has limited capability for work.”.

(23) In Schedule A1 ^{M45} (categories of members of a joint-claim couple etc.)—

(a) after paragraph 6 (member incapable of work) insert—

“Member has limited capability for work

6A. A person who—

(a) has limited capability for work under section 8 of the Welfare Reform Act; or

(b) is treated as having limited capability for work under regulations made under paragraph 1 of Schedule 2 to that Act; or

(c) is treated as not having limited capability for work under regulations made under section 18(1) of that Act (disqualification).”; and

(b) in paragraph 12 (pregnancy) after “incapable of work” insert “ or who has limited capability for work ”.

(24) In Schedule 1 (applicable amounts) in paragraph 1(3)—

(a) in paragraph (a)—

(i) in sub-paragraph (iii) after “income support” insert “ or an income-related employment and support allowance ”; and

(ii) in sub-paragraph (vii) after “income support” insert “ or an income-related employment and support allowance ”;

(b) in paragraph (f)(iii) after “income support” insert “ or an income-related employment and support allowance ”;

(c) in paragraph (g)(iii) after “income support” insert “ or an income-related employment and support allowance ”;

(d) in paragraph (h)(iii) after “income support” insert “ or an income-related employment and support allowance ”; and

(e) in paragraph 20H(1) ^{M46} (additional conditions for higher pensioner and disability premium) after sub-paragraph (e) insert—

“(ee) has had limited capability for work or has been treated as having limited capability for work for a continuous period of not less than—

(i) 196 days in the case of a member of a joint-claim couple who is terminally ill within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations; or

(ii) 364 days in any other case,

and for these purposes any two or more periods of limited capability for work separated by a break of not more than 12 weeks is to be treated as one continuous period;”.

(25) In Schedule 2 (housing costs)—

- (a) in paragraph 1 (housing costs)—
 - (i) in sub-paragraph (3)—
 - (aa) after (c) omit “or”; and
 - (bb) and after (d) add—
 - “or
 - (e) who is in receipt of an employment and support allowance which includes an amount under section 2(2) or (3) or 4(4) or (5) of the Welfare Reform Act (components).”; and
 - (ii) in sub-paragraph (4) after “disqualification etc.)” add “ or disqualified for receiving employment and support allowance or treated as not having limited capability for work in accordance with regulations made under section 18 of the Welfare Reform Act (disqualification) ”.
- (b) in paragraph 1A ^{M47} (previous entitlement to income support and state pension credit)—
 - (i) in the heading after “income support” insert “ , income-related employment and support allowance ”;
 - (ii) after “income support” each time it occurs insert “ or income-related employment and support allowance ”;
 - (iii) in sub-paragraph (1)(a) after “Income Support Regulations” add “ or paragraphs 16 to 18 of Schedule 6 to the Employment and Support Allowance Regulations ”; and
 - (iv) in sub-paragraph (1A)(a) ^{M48} after “Income Support Regulations” add “ or paragraphs 16 or 17 of schedule 6 to the Employment and Support Allowance Regulations ”;
- (c) in paragraph 6 (existing housing costs)—
 - (i) in sub-paragraph (3) for “or state pension credit” substitute “ , state pension credit or income-related employment and support allowance ”; and
 - (ii) in sub-paragraph (4) after “income support” insert “ or income-related employment and support allowance ”;
- (d) in paragraph 7 (new housing costs)—
 - (i) in sub-paragraph (2A) ^{M49} after “income support” insert “ or income-related employment and support allowance ”; and
 - (ii) in sub-paragraph (2B) ^{M50} after “income support” insert “ or income-related employment and support allowance ”;
- (e) in paragraph 13(6)(a) (linking rule) for “or incapacity benefit” substitute “ , incapacity benefit or contributory employment and support allowance ”;
- (f) in paragraph 17(7) (non-dependant deductions)—
 - (i) after paragraph (g) omit “or”; and
 - (ii) after paragraph (h) add—
 - “or
 - (i) he is aged less than 25 and is in receipt of employment and support allowance which does not include an amount under section ^{F3}... 4(4) or (5) of the Welfare Reform Act (components).”; and
- (g) in paragraph 18 (continuity with income support)—
 - (i) in the heading after “income support” add “ or income-related employment and support allowance ”; and

(ii) in sub-paragraph (1)—

(aa) after “income support” the first time it occurs insert “ or income-related employment and support allowance ”; and

(bb) in paragraph (c) after “income support” add “ or income-related employment and support allowance ”.

(26) In paragraph 5(7) of Schedule 6 (sums to be disregarded in the calculation of earnings) for “or income support” each time it occurs substitute “ , income support or an employment and support allowance ”.

(27) In paragraph 1(5) of Schedule 6A ^{M51} (sums to be disregarded in the calculation of earnings of members of joint-claim couples) for “income support” each time it occurs substitute “ , income support or an employment and support allowance ”.

(28) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 8(b) for “or income support” substitute “ , income support or employment and support allowance ”; and

(b) in paragraph 14(1)(a) ^{M52} for “or severe disablement allowance” substitute “ , severe disablement allowance or employment and support allowance ”.

(29) In paragraph 12 ^{M53} of Schedule 8 (capital to be disregarded)—

(a) in sub-paragraph (1)(b) after “working tax credit” add “ or an income-related employment and support allowance ”; and

(b) in sub-paragraph (3) for “or of income support” each time it occurs substitute “ , income support or of an income-related employment and support allowance ”.

F3 Words in [reg. 3\(25\)\(f\)\(ii\)](#) omitted (27.10.2008) by virtue of [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), [regs. 1\(2\)](#), [41\(3\)](#)

Marginal Citations

M27 [S.I. 1996/207](#).

M28 Definition was amended by [S.I. 1996/1517](#) and [1997/454](#).

M29 Paragraphs 1 and 2 were amended by [S.I. 1996/1517](#), [1997/563](#), [1999/3087](#), [2000/3336](#), [2004/1869](#), [2006/1402](#) and [2008/698](#).

M30 Paragraph 1 was amended by [S.I. 1996/1517](#), [1997/563](#), [1998/1274](#), [1999/3087](#), [2000/3336](#), [2004/1869](#) and [2006/1402](#).

M31 Paragraph 1 was amended by [S.I. 2000/1978](#) and [2003/511](#).

M32 Paragraph 2 was amended by [S.I. 1996/2538](#), [1997/454](#) and [2863](#), [2000/724](#), [2001/1029](#), [2002/2314](#), and [2003/511](#).

M33 Paragraph 2 substituted by [S.I. 1996/1517](#).

M34 Paragraph 1 was amended by [S.I. 1996/1517](#), [1999/2860](#) and [2000/1978](#).

M35 Regulation was inserted by [S.I. 2004/1869](#).

M36 Paragraph 1 was amended by [S.I. 2000/1978](#) and [2001/652](#).

M37 Paragraph 2 was amended by [S.I. 2000/1978](#).

M38 Paragraph 2 was amended by [S.I. 2001/3070](#) and [2006/718](#).

M39 Paragraph 6 was amended by [S.I. 1996/1516](#).

M40 Paragraph 5A was inserted by [S.I. 1997/65](#).

M41 Paragraph 3 was amended by [S.I. 1996/1517](#).

M42 Regulation was inserted by [S.I. 2000/1978](#).

M43 Regulation was amended by [S.I. 2000/1978](#).

M44 Regulation was amended by [S.I. 1996/1516](#).

M45 Schedule was inserted by [S.I. 2000/1978](#) and [2001/518](#).

- M46** Paragraph 20H was inserted by S.I. 2000/1978 and sub-paragraph (1) was amended by S.I. 2003/455.
M47 Paragraph 1A was inserted by S.I. 1997/2305 and amended by S.I. 2007/3183.
M48 Sub-paragraph (1A) was inserted by S.I. 2000/1978.
M49 Sub-paragraph (2A) was inserted by S.I. 1997/2305.
M50 Sub-paragraph (2B) was inserted by S.I. 2000/1978.
M51 Schedule was inserted by S.I. 2000/1978.
M52 Paragraph 14(1)(a) was amended by S.I. 2004/565.
M53 Paragraph 12 was amended by S.I. 1996/2538, 2001/2333, 2002/2380, 2003/455 and 2005/574.

Amendment of the State Pension Credit Regulations 2002

- 4.—(1) The State Pension Credit Regulations 2002^{M54} are amended as follows.
- (2) In regulation 1(2) (citation, commencement and interpretation)—
- (a) after the definition of “close relative”^{M55} insert—
- ““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
- (b) after the definition of “Eileen Trust” insert—
- ““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”;
- (c) after the definition of “a guaranteed income payment”^{M56} insert—
- ““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
- and
- (d) after the definition of “water charges” add—
- ““the Welfare Reform Act” means the Welfare Reform Act 2007.”.
- (3) In regulation 9 (qualifying income for the purposes of savings credit) after sub-paragraph (f) add—
- “(g) contributory employment and support allowance.”.
- (4) In regulation 13A(1)(a)^{M57} (part-weeks) after “income support” insert “ , an income-related employment and support allowance ”.
- (5) In regulation 13B(1)^{M58} (date on which benefits are treated as paid) after sub-paragraph (d) add—
- “(e) contributory employment and support allowance.”.
- (6) In regulation 15(4)^{M59} (income for the purposes of the Act) after sub-paragraph (c) add—
- “(d) section 3 of the Welfare Reform Act (deductions from contributory allowance).”.
- (7) In paragraph 6^{M60} of Schedule 1 (amount applicable for former claimants of income support or income-related jobseeker's allowance)—
- (a) in the heading for “or income-related jobseeker's allowance” substitute “ , income-based jobseeker's allowance or income-related employment and support allowance ”;
- (b) in sub-paragraph (2) for “or an income-based jobseeker's allowance” substitute “ , an income-based jobseeker's allowance or an income-related employment and support allowance ”;
- (c) in sub-paragraph (5)—
- (i) after paragraph (a) omit “or”;

- (ii) after paragraph (b) insert—
 - “or
 - (c) for the purposes of determining his entitlement to income-related employment and support allowance,”; and
 - (iii) in sub-paragraph (v) after “Income Support Regulations” insert “, paragraph 7 of Schedule 4 to the Employment and Support Allowance Regulations”; and
 - (d) in sub-paragraph (10)(a) after “Jobseeker's Allowance Regulations” insert “ or paragraph 20(2) of Schedule 6 to the Employment and Support Allowance Regulations”.
- (8) In Schedule 2 (housing costs)—
 - (a) in paragraph 1 (housing costs)—
 - (i) in sub-paragraph (2)(a)(iii) after paragraph (cc) add—
 - “or
 - (dd) is in receipt of an employment and support allowance which includes an amount under section 2(2) or (3) or 4(4) or (5) of the Welfare Reform Act (components).”; and
 - (ii) in sub-paragraph (3) after “disqualification etc)” add “ or disqualified for receiving employment and support allowance or treated as not having limited capability for work in accordance with regulations made under section 18 of the Welfare Reform Act (disqualification) ”;
 - (b) in paragraph 5 (housing costs not met)—
 - (i) in sub-paragraph (4) after “income-based jobseeker's allowance” each time it occurs insert “, income-related employment and support allowance ”; and
 - (ii) in sub-paragraph (5) for “or state pension credit” substitute “, state pension credit or income-related employment and support allowance ”;
 - (c) in paragraph 7 (the calculation for loans)—
 - (i) in sub-paragraph (4A)(a) after “income support” insert “, income-related employment and support allowance ”;
 - (ii) in sub-paragraph (4B)—
 - (aa) after paragraph (a) omit “or”; and
 - (bb) after paragraph (b) for “and” substitute—
 - “or
 - (c) where the earlier entitlement was to an income-related employment and support allowance, if their applicable amount included an amount determined in accordance with Schedule 6 to the Employment and Support Allowance Regulations as applicable to them in respect of a loan which qualifies under paragraph 16 to 18 of that Schedule, and”;
 - (d) in paragraph 10(10) (excessive housing costs) for “and income-based jobseeker's allowance” substitute “, income-based jobseeker's allowance and income-related employment and support allowance ”; and
 - (e) in paragraph 14(7) (persons residing with the claimant) after (f) add—
 - “(g) if he is aged less than 25 and is in receipt of employment and support allowance which does not include an amount under section ^{F4}... 4(4) or (5) of the Welfare Reform Act (components).”.

- (9) In Schedule 5 (income from capital)—
- (a) in paragraph 20(2) ^{M61} after paragraph (n) add—
- “(o) income-related employment and support allowance.”;
- (b) in paragraph 20A(2) ^{M62}—
- (i) after sub-paragraph (c) omit “or”; and
- (ii) after paragraph (d) add—
- “or
- (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations.”.
- (10) In paragraph 4 ^{M63} of Schedule 6 (sums disregarded from claimant's earnings)—
- (a) in sub-paragraph (1)(a)—
- (i) after paragraph (v) omit “or”; and
- (ii) after paragraph (vi) add—
- “(vii) employment and support allowance; or”;
- (b) in sub-paragraph (2) for “or income-based jobseeker's allowance” substitute “, income-based jobseeker's allowance or income-related employment and support allowance”.

F4 Words in reg. 4(8)(e) omitted (27.10.2008) by virtue of [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **41(4)**

Marginal Citations

M54 [S.I. 2002/1792](#).

M55 Definition was amended by [S.I. 2005/2877](#).

M56 Definition was inserted by [S.I. 2005/574](#).

M57 Regulation was inserted by [S.I. 2002/3019](#).

M58 Regulation was inserted by [S.I. 2002/3019](#).

M59 Paragraph 4 was amended by [S.I. 2005/3360](#).

M60 Paragraph 6 was amended by [S.I. 2002/3197](#) and [2006/588](#).

M61 Paragraph 2 was substituted by [S.I. 2003/2274](#).

M62 Paragraph 2 was substituted by [S.I. 2003/2274](#) and amended by [S.I. 2002/3197](#)

M63 Paragraph 4 was amended by [S.I. 2002/3197](#).

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008, PART 2.