
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”.

Textual Amendments

- 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](#).

Changes to legislation:

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