
STATUTORY INSTRUMENTS

2008 No. 1879

**The Employment and Support Allowance
(Consequential Provisions) (No. 3) Regulations 2008**

PART 11

Scotland

Amendment of the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989

34.—(1) The Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(1) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “Commissioner” insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;”;

(b) after the definition of “debtor” insert—

““Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”;

(c) after the definition of “5 per cent of the personal allowance for a single claimant aged not less than 25” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act;”;

(d) in the definition of “personal allowance for a couple where both members are aged not less than 18”—

(i) after sub-paragraph (a) omit “or” and

(ii) after sub-paragraph (b) add—

“or

(c) in the case of a person who is entitled to an income-related employment and support allowance, the amount for the time being specified in paragraph 1(3)(a) of column (2) of Schedule 4 to the Employment and Support Allowance Regulations;”;

(e) in the definition of “personal allowance for a single claimant aged not less than 25”—

(i) after sub-paragraph (a) omit “or” and

(ii) after sub-paragraph (b) add—

“or

- (c) in the case of a person who is entitled to an income-related employment and support allowance, the amount for the time being specified in paragraph 1(1)(b) of column (2) of Schedule 4 to the Employment and Support Allowance Regulations;” and
- (f) after the definition of “unmarried couple” add—
 - ““Welfare Reform Act” means the Welfare Reform Act 2007.”.
- (3) In regulation 2 (applications for deductions etc.)—
 - (a) in the heading for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”;
 - (b) in paragraph (1) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”; and
 - (c) in paragraph (2)(e) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”.
- (4) In regulation 3 (deductions from debtor’s income support etc.)—
 - (a) in the heading for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”;
 - (b) in paragraph (1) for “or income-based jobseeker’s allowance” substitute “, income-based jobseeker’s allowance or income-related employment and support allowance”;
 - (c) in paragraph (2)—
 - (i) in sub-paragraph (a) after “contribution-based jobseeker’s allowance” add “or contributory employment and support allowance”; and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) the amount payable, before any deductions under this paragraph, of—
 - (i) contribution-based jobseeker’s allowance is equal to or more than one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseekers Act; or
 - (ii) contributory employment and support allowance is equal to or more than one-third of the amount applicable to the debtor under section 2(1)(a) of the Welfare Reform Act,
 as the case may be,”; and
 - (iii) after “Jobseekers Act” the second time it occurs insert “or under section 2(1)(a) of the Welfare Reform Act”.
- (5) In regulation 4 (circumstances, time of making and termination of deductions)—
 - (a) in paragraph (1)(a) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”; and
 - (b) in paragraph (2) for “or jobseeker’s allowance” each time it occurs substitute “, jobseeker’s allowance or employment and support allowance”.

Amendment of the Advice and Assistance (Scotland) (Consolidation and Amendment) Regulations 1996

35.—(1) The Advice and Assistance (Scotland) (Consolidation and Amendment) Regulations 1996(2) are amended as follows.

- (2) In regulation 2 (interpretation)—

(2) [S.I. 1996/2447](#). Paragraph 5 of Schedule 2 was inserted by [S.S.I 2003/421](#).

- (a) after the definition of “child” insert—
 - ““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”;
- (b) after the definition of “employment tribunal” insert—
 - ““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.
- (3) In regulation 4(a) (applications for advice and assistance) after “income support” insert “, an income-related employment and support allowance”.
- (4) In regulation 16 (2) (payment of fees and outlays from property recovered or preserved)—
 - (a) in sub-paragraph (a)(v) after “129 of the 1992 Act” insert “, an income-related employment and support allowance”;
 - (b) in sub-paragraph (c) after “Schedule 7 to the 1992 Act” insert “, contributory employment and support allowance”.
- (5) In Schedule 2 (assessment of disposable capital and disposable income) after paragraph 5(j) insert—
 - “(k) contributory employment and support allowance.”.

Amendment of the Repayment of Student Loans (Scotland) Regulations 2000

36. In regulation 2 of the Repayment of Student Loans (Scotland) Regulations 2000(3) (interpretation) in the definition of “disability related benefit” after “Social Security Contributions and Benefits Act 1992,” add “an employment and support allowance payable under Part 1 of the Welfare Reform Act 2007”.

Amendment of the Bus Service Operators Grant (Scotland) Regulations 2002

37. In regulation 3(4) of the Bus Service Operators Grant (Scotland) Regulations 2002(4) (eligibility for grant) after sub-paragraph (d) insert—

- “(dd) persons in receipt of employment and support allowance payable under Part 1 of the Welfare Reform Act 2007;”.

Amendment of the Civil Legal Aid (Scotland) Regulations 2002

38.—(1) The Civil Legal Aid (Scotland) Regulations 2002(5) are amended as follows.

- (2) In regulation 2(1) (interpretation) after the definition of “income” insert—
 - ““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.
- (3) In regulation 33(a)(v) (payments out of property recovered or preserved: exceptions) after “the 1992 Act” insert “, an income-related employment and support allowance”.
- (4) In Schedule 2 (rules for computing disposable income) in paragraph 5 after sub-paragraph (e) add—
 - “(f) an income-related employment and support allowance.”.
- (5) In Schedule 3 (rules for computing disposable capital) in paragraph 7 after “(payable under the Jobseekers Act 1995)” insert “or an income-related employment and support allowance”.

(3) [S.S.I. 2000/110](#).

(4) [S.S.I. 2002/289](#).

(5) [S.S.I. 2002/494](#). Regulation 33 was amended by [S.S.I. 2007/59](#).

Amendment of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003

39. In article 4(2) of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003⁽⁶⁾ (the severely mentally impaired)—

(a) after sub-paragraph (j) omit “and”; and

(b) after sub-paragraph (k) insert—

“and

(l) employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.”.

Amendment of the Education Maintenance Allowances (Scotland) Regulations 2007

40. In paragraph 3(e) of Schedule 2 to the Education Maintenance Allowances (Scotland) Regulations 2007⁽⁷⁾ (ordinary residence) after “income support” add “or income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007”.

⁽⁶⁾ S.S.I. 2003/176.

⁽⁷⁾ S.S.I. 2007/156.