
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional provision in relation to the introduction of employment and support allowance. They provide in effect that (apart from linked claims) after employment and support allowance is introduced no new claim can be made for incapacity benefit, severe disablement allowance or income support on the grounds of disability, since such a claim will be treated as a claim for an employment and support allowance (regulation 2(1)).

But a person who has previously been entitled to incapacity benefit, severe disablement allowance or income support on the grounds of disability, can, in the circumstances set out in regulation 2(2), make a repeat (linked) claim for that benefit.

A person who is entitled to incapacity benefit, severe disablement allowance or income support on the grounds of disability, or who can make a linked claim for that benefit, is prevented from claiming employment and support allowance (regulation 3).

Where a person tries to claim an employment and support allowance ineffectively, either by making a claim for a period before employment and support allowance is introduced or by claiming after the appointed day for a period which includes a period before the appointed day, the claim may be treated instead as a claim for incapacity benefit or income support on the grounds of disability (regulation 4).

Regulation 5 provides a specific transitional provision relating to certain amendments made to the Jobseekers Act 1995 by paragraph 12 of Schedule 3 to the Welfare Reform Act 2007 (relating to “incapacity for work”)

An impact assessment has not been completed for these Regulations as they have no impact on the private, public or voluntary sectors.