
STATUTORY INSTRUMENTS

2010 No. 1907

The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010

PART 2

CONVERSION DECISIONS

Regulations 10 and 11: supplementary

12.—(1) This regulation has effect for the purposes of applying regulations 10 and 11 in relation to any notified person.

(2) Subject to paragraphs (3) and (4)—

- (a) Amounts A and C are to be calculated in respect of the benefit week which ends immediately before the effective date of the notified person's conversion decision; and
- (b) Amounts B and D are to be calculated in respect of the benefit week the first day of which is the effective date of the notified person's conversion decision.

(3) Where—

- (a) by virtue of an order made under section 150 of the Administration Act (annual up-rating of benefits), there is an increase in—
 - (i) the weekly rate which, in accordance with regulation 10(3) (transitional addition: incapacity benefit or severe disablement allowance), is to be used to calculate Amount A, or
 - (ii) the applicable amount which, in accordance with regulation 11(3) (transitional addition: income support), is to be used to calculate Amount C; and
- (b) that increase takes effect from any day in the benefit week referred to in paragraph (2)(b), the calculation of Amount A or C is to be made using the increased weekly rate or applicable amount (as the case may be).

(4) Where—

- (a) there is a change of circumstances in relation to a notified person which, but for subparagraph (b), would have resulted in an increase or decrease of the weekly rate or applicable amount referred to in paragraph (3)(a)(i) or (ii); and
- (b) that increase or decrease would have taken effect from any day in the benefit week referred to in paragraph (2)(b),

the calculation of Amount A or C is to be made using the weekly rate or applicable amount (as the case may be) which would have been payable in respect of the existing award if it had not been subject to conversion under these Regulations.

(5) The “applicable component”, in relation to the notified person, means—

- (a) the work-related activity component, if it has been determined in accordance with the enactments applied by regulation 6 (application of certain enactments for purpose of making conversion decisions) that the notified person does not have and is not to be treated as having limited capability for work-related activity; or
- (b) the support component, if it has been determined in accordance with those enactments that the notified person has or is to be treated as having limited capability for work-related activity.