

Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Regulation 6(1)

Modification of enactments: making conversion decisions

PART 1

MODIFICATION OF PART 1 OF THE 2007 ACT

[^{F1}1]. Any reference to a claimant is to be read as if it were a reference to a notified person.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[^{F1}2]. [^{F2}Section 1 is to be read as if

(a) for subsection (2), there were substituted—

“(2) Subject to the provisions of this Part, a notified person is entitled to an employment and support allowance if the person satisfies the basic conditions and—

- (a) is entitled to an existing award of incapacity benefit or severe disablement allowance;
- (b) is entitled to an existing award of income support and satisfies the conditions set out in Part 2 of Schedule 1, unless subsection (2)(c) applies; or
- (c) is entitled to an existing award of income support by virtue of—
 - (i) regulation 13(2)(b) or (bb) of the Income Support (General) Regulations 1987 (circumstances in which persons in relevant education may be entitled to income support), or
 - (ii) paragraph 10 (disabled students) or 12 (deaf students) of Schedule 1B to those Regulations,

and satisfies the conditions set out in Part 2 of Schedule 1, with the exception of the condition in paragraph 6(1)(g).”;

(b) subsection (3)(e) were omitted.]

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

F2 Sch. 1 para. 2 substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **16(2)** (with reg. 15(2))

[^{F1}3]. Section 2 is to be read as if, in subsections (2)(a) and (3)(a), references to the assessment phase were to the conversion phase.

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F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[^{F1}4]. Section 4 is to be read as if, in subsections (4)(a) and (5)(a), references to the assessment phase were to the conversion phase.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[^{F1}5]. Section 5 does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[^{F1}6]. Schedule 1 to the 2007 Act is to be read as if—

- (a) paragraphs 1 to 5 were omitted; and
- (b) in paragraph 6, after sub-paragraph (1), there were inserted—

“(1A) Paragraphs (1B) and (1C) apply in relation to any person (“P”) whose existing award of income support is subject to conversion under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”).

(1B) In determining for the purposes of paragraph (1)(a) whether P's income exceeds the applicable amount, any amount to which P may become entitled by way of a transitional addition under Part 2 of the 2010 Regulations shall be disregarded.

(1C) But where—

- (a) P's existing award would qualify for conversion under Part 2 of the 2010 Regulations but for the fact that the condition set out in paragraph (1)(a) is not satisfied in P's case; and
- (b) P would otherwise be entitled to an amount of transitional addition under Part 2 of the 2010 Regulations as a result of carrying out Step 2,

the condition set out in paragraph (1)(a) shall be treated as having been satisfied and the amount of an employment and support allowance which applies to P as a result of Step 1 shall be nil.”

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

PART 2

MODIFICATION OF THE 2008 REGULATIONS

[^{F1}7]. Any reference to a claimant is to be read as if it were a reference to the notified person.

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F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[**F18**]. Part 2 (which makes provision about the assessment phase) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[**F19**]. Part 3 (which makes provision about contribution conditions which do not apply by virtue of modifications contained in these Regulations) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[**F110**]. Regulation 30 (which provides for payment of the allowance pending determination of limited capability for work) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

[**F310A**]. In the case of a person who is entitled to an existing award of income support and who is a person to whom paragraph (1) of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004 applies, regulation 70 (special cases: supplemental – persons from abroad) is to be read as if—

- (a) the word “or” at the end of paragraph (4)(k) were omitted; and
- (b) at the end of paragraph (4)(jj) the word “or” and the following sub-paragraph were added—
 - “(l) a person who is entitled to an existing award of income support where that person is a person to whom paragraph (1) of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004 applies”.]

F3 Sch. 1 para. 10A inserted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **16(3)** (with reg. 15(2))

[**F111**]. Regulation 75 (payments treated as not being payments to which section 3 of the 2007 Act applies) is to be read as if—

- (a) the existing provisions were renumbered as paragraph (1);
- (b) at the end of that paragraph there were added—
 - “(g) any pension payment or PPF periodic payment which is made to a notified person and which falls within paragraph (2).”; and
- (c) after that paragraph there were added—
 - “(2) This paragraph applies to any pension payment or PPF periodic payment made to the notified person where, immediately before the effective date of the person's conversion

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decision, section 30DD(1) of the Contributions and Benefits Act ^{M1} (incapacity benefit: reduction for pension payments and PPF periodic payments)—

- (a) did not apply to the notified person by virtue of regulation 26 of the Social Security (Incapacity Benefit) Regulations 1994 ^{M2} (persons whose benefit is not to be reduced under section 30DD(1)); or
- (b) was not treated as applying to the notified person by virtue of—
 - (i) regulation 19(1)(c) or (2)(c) of those Regulations (persons formerly entitled to severe disablement allowance); or
 - (ii) article 3 of the Welfare Reform and Pensions Act 1999 (Commencement No.9, and Transitional and Savings Provisions) Order 2000 ^{M3} (transitional provision in relation to incapacity benefit).”.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

Marginal Citations

- M1** Section 30DD was inserted by section 63 of the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#) and amended by [S.I. 2006/343](#).
- M2** [S.I. 1994/2946](#).
- M3** [S.I. 2000/2958](#).

[^{F1}12]. Regulation 144 (requirement to serve a period of waiting days at the beginning of a period of limited capability for work) does not apply.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

PART 3

MODIFICATION OF OTHER SECONDARY LEGISLATION

Social Security (Claims and Payments) Regulations 1987

[^{F1}13]. Regulation 32 of the Social Security (Claims and Payments) Regulations 1987 ^{M4} (information to be given and changes to be notified) is to be read as if it were modified so as to enable the Secretary of State to require from any person entitled to an existing award—

- (a) under paragraph (1), information or evidence for determining whether ^{F4}... an existing award should be converted into an award of an employment and support allowance; and
- (b) under paragraph (1A), information or evidence in connection with payment of benefit in the event that an existing award is converted into an award of an employment and support allowance.

F1 Sch. 1 paras. 1-13: Sch. 1 para. 28-40 renumbered as Sch. 1 para. 1-13 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(a)**

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F4 Words in Sch. 1 para. 13(a) omitted (1.11.2010) by virtue of The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) (Amendment) Regulations 2010 (S.I. 2010/2430), regs. 1(2), **16(4)** (with reg. 15(2))

Marginal Citations

M4 S.I. 1987/1968. Regulation 32(1) and (1A) were inserted by S.I. 2003/1050.

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