
STATUTORY INSTRUMENTS

2010 No. 2430

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

Migration Regulations: amendment of Schedule 1

16.—(1) Schedule 1 to the Migration Regulations (modification of enactments: making conversion decisions) is amended as follows.

(2) For paragraph 2 (modification of section 1 of the 2007 Act for the purpose of making conversion decisions), substitute—

“2. 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.”.

(3) After paragraph 10 (disapplication of regulation 30 of the 2008 Regulations) insert—

“**10A.** 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(1) 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

(1) [S.I. 2004/1232](#). These Regulations were partially revoked by [S.I. 2006/217](#) but the transitional arrangements and savings in regulation 6 of [S.I. 2004/1232](#) continued in force (with the exception of paragraph (2)(a)). [S.I. 2004/1232](#) was then revoked by [S.I. 2006/1026](#) but those transitional arrangements and savings continue in force by virtue of regulation 11(2)(b) of [S.I. 2006/1026](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) at the end of paragraph (4)(jj) the word “or” and the following sub-paragraph were added–

“(1) 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”.”.

(4) In paragraph 13(a) (modification of regulation 32 of the Social Security (Claims and Payments) Regulations 1987(2)) omit “a decision on”.