
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 regulation 15

8.—(1) Regulation 15 of the Migration Regulations (conversion decision that existing award does not qualify for conversion) is amended as follows.

(2) In paragraph (1), for “Subject to paragraph (4), paragraphs (2) and (3) apply” substitute “Subject to paragraphs (2A) and (4), paragraphs (2), (3) and (6) apply”.

(3) After paragraph (2), insert—

“(2A) Where P—

- (a) has an existing award of income support, and
- (b) would, on the effective date of P’s conversion decision, remain entitled to income support (by virtue of another provision of the Income Support (General) Regulations 1987) were P not a person to whom regulations 6(4)(a) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, those Regulations (persons incapable of work or disabled) applied,

P’s existing award of income support shall only terminate under paragraph (2)(b) if P notifies the Secretary of State before the effective date of P’s conversion decision that P does not wish to remain entitled to income support on that date.

(2B) Where paragraph (2A) applies, and P’s existing award of income support does not terminate under paragraph (2)(b), any entitlement of P to a disability premium by virtue of paragraph 12(1)(b) of Schedule 2 to the Income Support (General) Regulations 1987 (additional condition for the higher pensioner and disability premiums) shall terminate immediately before the effective date of P’s conversion decision.”.

(4) In paragraph (3), for “that date”, where it first appears, substitute “the effective date of P’s conversion decision”.

(5) For paragraph (6), substitute—

“(6) Where—

- (a) paragraph (2) applies; and
- (b) P is a member of a joint-claim couple,

any entitlement of that couple to a disability premium by virtue of paragraph 20H(1)(b) or (d) of Schedule 1 to the Jobseeker’s Allowance Regulations 1996 (additional conditions for higher pensioner and disability premium: severe disablement allowance or incapacity benefit) shall terminate immediately before the effective date of P’s conversion decision.

(7) In this regulation—

- (a) paragraphs (2), (2A), (3) and (6) are subject to regulation 17 (changes of circumstances before the effective date); and

Status: This is the original version (as it was originally made).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

- (b) “joint-claim couple” has the same meaning as in section 1(4) of the Jobseekers Act 1995.”.