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## STATUTORY INSTRUMENTS

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**2017 No. 581**

# SOCIAL SECURITY

## The Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations 2017

<i>Made</i>	- - - -	<i>23rd April 2017</i>
<i>Laid before Parliament</i>		<i>24th April 2017</i>
<i>Coming into force</i>	- -	<i>23rd June 2017</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 15(4) and (5) and 34(1) of the Welfare Reform and Work Act 2016<sup>(1)</sup>. In accordance with section 173(5)(b) of the Social Security Administration Act 1992<sup>(2)</sup>, this instrument contains only regulations made by virtue of, or consequential upon section 15 of the Welfare Reform and Work Act 2016 and is made before the end of the period of 6 months beginning with the coming into force of this section.

In accordance with section 176(1) of the Social Security Administration Act 1992 the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

### Citation and commencement

1. These Regulations may be cited as the Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations 2017 and come into force on 23rd June 2017.

### Amendments to the Social Fund (Cold Weather Payments) (General) Regulations 1988

2. In paragraph (2) of regulation 1 (interpretation) of the Social Fund (Cold Weather Payments) (General) Regulations 1988<sup>(3)</sup>—

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(1) [2016 c.7](#).

(2) [1992 c.5](#).

(3) [S.I. 1988/1724](#); the relevant amending instrument is [S.I. 2017/204](#).

- (a) for the definition of “member of the support group” substitute—

““member of the support group” means a person who has or is treated as having limited capability for work-related activity under Part 6 of the Employment and Support Allowance Regulations 2008;”;

- (b) for the definition of “member of the work-related activity group” substitute—

““member of the work-related activity group” means a person who has or is treated as having limited capability for work under Part 5 of the Employment and Support Allowance Regulations 2008 other than by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008;”.

### **Amendment to the Jobseeker’s Allowance Regulations 1996**

3. In paragraph 1(3)(e)(i) of Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations 1996(4), after “(component)” insert “or who is a member of the work-related activity group”.

### **Amendment to the State Pension Credit Regulations 2002**

4. In paragraph 1(2)(a)(iii)(dd) of Schedule 2 (housing costs) to the State Pension Credit Regulations 2002(5), for “Welfare Reform Act “(component)” substitute “Welfare Reform Act (component)”.

### **Amendments to the Housing Benefit Regulations 2006**

5.—(1) The Housing Benefit Regulations 2006(6) are amended as follows.

- (2) In paragraph (1) of regulation 2 (interpretation)—

- (a) in the definition for “main phase employment and support allowance” after “Welfare Reform Act” insert “or the claimant is a member of the work-related activity group, ”;
- (b) in the definition for “member of the work-related activity group” for “claimant” substitute “person”.

(3) In paragraph (8)(c)(ii) of regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

- (a) omit “23 or”;
- (b) after “of that Schedule” insert “or the claimant or the claimant’s partner is a member of the work-related activity group”.

(4) In paragraph (8)(a) of regulation 74 (non-dependant deductions) for “or where the non-dependant is not a member of the work-related activity group” substitute “and where the non-dependant is not a member of the work-related activity group”.

(5) In paragraph 1A(a) of Schedule 3 (applicable amounts) after “personally” insert “or the claimant is personally a member of the work-related activity group”.

(6) In paragraph 17(2)(b)(iv)(bb) of Schedule 4 (sums to be disregarded in the calculation of earnings) omit “and is engaged in remunerative work for on average not less than 16 hours per week”.

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(4) S.I. 1996/207; relevant amending instruments are S.I. 2012/913 and 2017/204.

(5) S.I. 2002/1792; relevant amending instruments are S.I. 2008/1554, 2012/913, 2013/388 and 2017/204.

(6) S.I. 2006/213; relevant amending instruments are S.I. 2008/1042, 2008/1082, 2009/583, 2010/1907, 2013/443, 2013/630 and 2017/204.

### **Amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

6.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(7)</sup> are amended as follows.

(2) In paragraph (1) of regulation 2 (interpretation)—

- (a) in the definition for “main phase employment and support allowance” after “Welfare Reform Act” insert “or the claimant is a member of the work-related activity group”;
- (b) in the definition for “member of the work-related activity group” for “claimant” substitute “person”.

(3) In paragraph (8) of regulation 55 (non-dependant deductions) for “or where the non-dependant is not a member of the work-related activity group” substitute “and where the non-dependant is not a member of the work-related activity group”.

### **Amendments to the Employment and Support Allowance Regulations 2008**

7.—(1) The Employment and Support Allowance Regulations 2008<sup>(8)</sup> are amended as follows.

(2) In paragraph (1) of regulation 2 (interpretation)—

- (a) in the definition for “main phase employment and support allowance” after “Act” insert “or where the claimant is a member of the work-related activity group”;
- (b) in the appropriate place insert—

““member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under Part 5 of these Regulations other than by virtue of regulation 30 of these Regulations;”.

(3) In paragraph (1B) of regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component arises does not apply)—

- (a) in sub-paragraph (a)(i) after “2(2) or 4(4) of the Act” insert “or the claimant was a member of the work-related activity group”;
- (b) in sub-paragraph (d)(i) after “2(2) or 4(4) of the Act” insert “or the claimant was a member of the work-related activity group”.

(4) In column (1) of paragraph 1 of Part 1 of Schedule 4 (amounts)—

- (a) in sub-paragraph (1)(a) after “2(2) or 4(4) of the Act” insert “or who is a member of the work-related activity group”;
- (b) in sub-paragraph (2)(a) after “4(4) of the Act” insert “or who is a member of the work-related activity group and satisfies the conditions set out in Part 2 of Schedule 1 to the Act”;
- (c) in sub-paragraph (3)(c), (f) and (g) after “4(4) of the Act” insert “or the claimant is a member of the work-related activity group and satisfies the conditions set out in Part 2 of Schedule 1 to the Act”.

### **Amendment to the Employment and Support Allowance Regulations 2013**

8. In paragraph (1)(a) and (b) of regulation 62 (prescribed amounts) of the Employment and Support Allowance Regulations 2013<sup>(9)</sup>, after “the Act” insert “or the claimant is a member of the work-related activity group and satisfies the conditions set out in Part 1 to Schedule 1 to the Act”.

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<sup>(7)</sup> S.I. 2006/214; relevant amending instruments are S.I. 2008/1082, 2013/630 and 2017/204.

<sup>(8)</sup> S.I. 2008/794; relevant amending instruments are S.I. 2012/919, 2013/574, 2015/30, and 2017/204.

<sup>(9)</sup> S.I. 2013/379; relevant amending instruments are S.I. 2015/30 and 2017/204.

**Amendments to the Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017**

**9.** In Schedule 2 (transitional and savings provisions) to the Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017<sup>(10)</sup>—

- (a) in paragraph 1(2) in the definition for “a claim”—
  - (i) for ““a claim”” substitute ““claim””;
  - (ii) omit “making”;
  - (iii) before “in accordance” insert “made”;
- (b) in paragraph 4 (claimants on incapacity benefits who have or will become notified persons) after “where the claimant” insert “has been, ”.

**Transitional and savings provision**

**10.** The amendments made by regulations 2 to 8 of these Regulations do not apply where any of the circumstances in paragraph 2 to 7 of Schedule 2 (transitional and savings provisions) to the Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017, as amended by regulation 9 of these Regulations apply.

Signed by authority of the Secretary of State for Work and Pensions

23rd April 2017

*Penny Mordaunt*  
Minister of State  
Department for Work and Pensions

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<sup>(10)</sup> S.I. 2017/204.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to secondary legislation consequential on section 15 of the Welfare Reform and Work Act 2016 (“the 2016 Act”).

Section 15 of the 2016 Act amends sections 2 and 4 of the Welfare Reform Act 2007, which provides for an award of an employment and support allowance where the claimant is found to have limited capability for work to include an amount referred to as the work-related activity component as may be prescribed by regulations. The amendments to sections 2 and 4 of the Welfare Reform Act 2007 remove reference to the work-related activity component.

The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (“the 2017 Regulations”) made consequential amendments required under section 15 of the 2016 Act and provided transitional protections for certain claimants in Part 1 of Schedule 2 of the 2017 Regulations.

Regulation 1 provides for citation and commencement of these Regulations. In particular these Regulations will come into force on 23rd June 2017.

Regulations 2, 3, 5, 6, 7 and 8 make amendments to ensure that it is clear following the 2017 Regulations what allowances are available to claimants who are not protected by the 2017 Regulations.

Regulation 4 makes minor correcting amendments following the 2017 Regulations to the State Pension Credit Regulations 2002.

Regulation 9 makes minor amendments to the 2017 Regulations to make it clear which claimants are protected by the transitional protection.

Regulation 10 provides that the amendments made at regulations 2 to 8 only apply to claimants who are not protected by the transitional protections in the 2017 Regulations.

The regulations contained in this instrument are either made by virtue of, or are consequential upon section 15 of the 2016 Act. This instrument is made before the expiry of the period of 6 months beginning with the coming into force of that provision. The regulations in it are therefore exempt in accordance with section 173(5) of the Social Security Administration Act 1992 from the requirement in section 172(1) of that Act to refer proposals to make Regulations to the Social Security Advisory Committee and are made without reference to that Committee.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.