

---

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 4**

MISCELLANEOUS

**Disapplication of certain enactments following conversion decision**

**22.** Where a conversion decision has been made in relation to any person, the following enactments shall not apply to that person with effect from the conversion decision's effective date—

- (a) sections 30A, [<sup>F1</sup>30C,] 40 or 41 of the Contributions and Benefits Act <sup>M1</sup> (incapacity benefit);
- (b) section 68 of the Contributions and Benefits Act (as it has effect by virtue of article 4 of the Welfare Reform and Pensions Act 1999 (Commencement No. 9, and Transitional and Savings Provisions) Order 2000 <sup>M2</sup>);
- (c) regulation 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, the Income Support (General) Regulations 1987 <sup>M3</sup> (prescribed category of persons for the purposes of entitlement on grounds of incapacity or disability);
- (d) the Income Support Transitional Regulations 1987 <sup>M4</sup>; and
- (e) the Incapacity Benefit Transitional Regulations 1995 <sup>M5</sup>.

---

**Textual Amendments**

- F1** Word in [reg. 22\(a\)](#) 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\(2\)](#), **13**

---

**Marginal Citations**

- M1** Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 and is to be repealed by paragraph 9(5) of the Welfare Reform Act 2007. Section 40 was substituted, and section 41 inserted, by paragraphs 8 and 9 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 and are to be repealed by Schedule 8 to the Welfare Reform Act 2007.
- M2** [S.I. 2000/2958 \(C. 89\)](#).
- M3** [S.I. 1987/1967](#). Relevant amending instruments are [S.I. 1996/206](#), 2000/1981 and 2006/718. The enactments referred to in regulation 22(c) are revoked, subject to savings, by [S.I. 2009/3152](#) with effect from 30th December 2009.
- M4** [S.I. 1987/1969](#).
- M5** [S.I. 1995/310](#).

**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, PART 4. (See end of Document for details)

## Treatment of claims until coming into force of regulation 24

23. In sub-paragraphs (a), (b) and (c) of regulation 2(2) of the Employment and Support Allowance (Transitional Provisions) Regulations 2008<sup>M6</sup> (claim for existing award), for “a claim” substitute “a claim made in respect of a period commencing before 31st January 2011”.

### Marginal Citations

M6 [S.I. 2008/795](#).

## [F2]Termination of entitlement to the disability premium for persons incapable of work: income support

23A.—(1) Subject to paragraph (4), paragraph 12 of Schedule 2 to the Income Support (General) Regulations 1987 (additional condition for the higher pensioner and disability premiums) is amended as follows.

(2) For paragraph 12(1)(b) substitute—

“(b) the claimant—

(i) is entitled to statutory sick pay,

(ii) has been so entitled for a continuous period of not less than 196 days, and

(iii) is terminally ill within the meaning of section 30B(4) of the Contributions and Benefits Act,

and for these purposes any two or more periods of entitlement separated by a break of not more than 56 days shall be treated as one continuous period; or”.

(3) Paragraph 12(1A) and (5) are omitted.

(4) Where a person—

(a) is or becomes entitled to an award of income support, and

(b) is a person to whom paragraph 7(a) or (b) of Schedule 1B to the Income Support (General) Regulations 1987 (persons incapable of work) applies,

paragraphs 12(1)(b), 12(1A) and 12(5) of Schedule 2 to the Income Support (General) Regulations 1987 continue to apply to that person as if paragraphs (2) and (3) of this regulation had no effect.]

### Textual Amendments

F2 [Reg. 23A](#) 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\(2\)](#), [14](#)

## Revocation of transitional claims provisions

24. In regulation 2(2) of the Employment and Support Allowance (Transitional Provisions) Regulations 2008, sub-paragraphs (a) to (c) are revoked.

## Amendment of the 2008 Regulations

25.—(1) Regulation 31 of the 2008 Regulations (claimant who claims jobseeker's allowance to be treated as not having limited capability for work) is revoked.

---

**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, PART 4. (See end of Document for details)*

---

(2) In regulation 144(2)(a) of the 2008 Regulations (which sets out exceptions from the requirement to serve a period of waiting days at the beginning of a period of limited capability for work), between “income support,” and “state pension credit” insert “ incapacity benefit, severe disablement allowance,”.

#### **Consequential amendments**

**26.** Schedule 4 (which makes amendments consequential on these Regulations) has effect.

#### **Amendments to legislation relating to Housing Benefit and Council Tax Benefit**

**27.** Schedule 5 (which makes amendments to legislation relating to Housing Benefit and Council Tax Benefit) has effect.

**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, PART 4.