

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 3. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Amendments to legislation relating to Housing Benefit and Council Tax Benefit

PART 3

AMENDMENT OF THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (DECISIONS AND APPEALS) REGULATIONS 2001

[^{F13}].—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 ^{MI} are amended as follows.

(2) In regulation 7(2) (decisions superseding earlier decisions)—

(a) in sub-paragraph (i) after “sub-paragraph (o)” insert “, (p) or (q) ”;

(b) after sub-paragraph (o) add—

“(p) where—

(i) the claimant has been awarded entitlement to housing benefit or council tax benefit;

(ii) the claimant or the claimant's partner has had an award of benefit converted to an employment and support allowance in accordance with regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; and

(iii) subsequent to the first day of the period to which that entitlement to housing benefit or council tax benefit relates, the Secretary of State makes a decision to supersede the award of employment and support allowance to award a different component;

(q) where the claimant has been awarded entitlement to housing benefit or council tax benefit and subsequent to the first day of the period to which that entitlement relates—

(i) a conversion decision of the kind set out in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect in respect of the claimant or the claimant's partner; or

(ii) the claimant is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”.

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- (3) In regulation 8 (date from which a decision superseding an earlier decision takes effect)—
- (a) in paragraph (14D)—
- (i) after “regulation 7(2)(o)” insert “ or (p) ”; and
- (ii) in sub-paragraph (a) after “regulation 7(2)(o)(iii)” insert “ or (p)(iii) ”; and
- (b) after paragraph (14D) insert—
- “(14E) Where a decision is superseded in accordance with regulation 7(2)(q) the decision shall take effect—
- (a) where the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect on or after 1st April in any year but before 16th April of that year—
- (i) from 1st April for a council tax benefit award;
- (ii) from 1st April for a housing benefit award in which the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(b) or (c) of the Housing Benefit (State Pension Credit) Regulations;
- (iii) from the first Monday in April for a housing benefit award to which sub-paragraph (a)(ii) does not apply;
- (b) in any other case, from the day the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect.”.

Textual Amendments

F1 Sch. 5 paras. 1-3: Sch. 5 para. 69-71 renumbered as Sch. 5 para. 1-3 (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)(d)**

Marginal Citations

M1 [S.I. 2001/1002](#). Regulation 7(2)(i) was inserted by [S.I. 2003/2275](#) and amended by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Regulations 7(2)(o) and 8(14D) were inserted by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)).

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