

SCHEDULE 2

Transitional and savings provisions

PART 1

Employment and Support Allowance: transitional and savings provisions

Transitional and savings provisions: General

1.—(1) The amendments made by regulations 2 and 3, paragraphs 1 to 9 of Schedule 1 and by section 15(1) to (3) of the Welfare Reform and Work Act 2016 (which amend sections 2 and 4 of the Welfare Reform Act 2007) do not apply where any of the circumstances in paragraphs 2 to 7 apply.

(2) In this Part—

“assessment phase” has the same meaning as in the Welfare Reform Act 2007(1);

“ [F1claim] ” means F2... a claim for an employment and support allowance [F3made] in accordance with regulations 4ZC, 4G, 4H and 4I of the Social Security (Claims and Payments) Regulations 1987(2) or regulations 13 to 17 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(3);

“employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act 2007;

“ESA Regulations 2008” means the Employment and Support Allowance Regulations 2008(4);

“ESA Regulations 2013” means the Employment and Support Allowance Regulations 2013(5).

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|---|
| <p>F1 Words in Sch. 2 para. 1(2) substituted (23.6.2017) by The Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations 2017 (S.I. 2017/581), regs. 1, 9(a)(i)</p> |
| <p>F2 Word in Sch. 2 para. 1(2) omitted (23.6.2017) by virtue of The Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations 2017 (S.I. 2017/581), regs. 1, 9(a)(ii)</p> |
| <p>F3 Word in Sch. 2 para. 1(2) inserted (23.6.2017) by The Employment and Support Allowance (Miscellaneous Amendments and Transitional and Savings Provision) Regulations 2017 (S.I. 2017/581), regs. 1, 9(a)(iii)</p> |

Claimants who have made a claim for employment and support allowance before 3rd April 2017

2. The first circumstance is where the claimant has made or is treated as having made a claim for an employment and support allowance before 3rd April 2017 and that claim results in an award of employment and support allowance.

(1) 2007 c.5.

(2) S.I. 1987/1968; relevant amending instruments are S.I. 1997/793, 2003/492, 2003/2800 and 2008/1554.

(3) S.I. 2013/380.

(4) S.I. 2008/794; relevant amending instruments are S.I. 2010/840, 2012/919, 2013/2536 and 2015/339.

(5) S.I. 2013/379, amended by S.I. 2015/339.

Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017, PART 1. (See end of Document for details)

Claimants who had been found to have limited capability for work before 3rd April 2017

3. The second circumstance is where the claimant's period of limited capability for work began on or after 3rd April 2017 and is treated as a continuation of an earlier period of limited capability for work which began before 3rd April 2017 by virtue of—

- (a) regulation 145 of the ESA Regulations 2008; or
- (b) regulation 86 of the ESA Regulations 2013.

Claimants on Incapacity Benefits who have or will become notified persons

4. The third circumstance is where the claimant [^{F4}has been,] is or becomes a notified person within the meaning of regulation 4 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010⁽⁶⁾ and a determination is effective as to whether that person—

- (a) has or is to be treated as having limited capability for work under Part 5 of the ESA Regulations 2008;
- (b) has or is to be treated as having limited capability for work under Part 5 of the ESA Regulations 2013;
- (c) has or is to be treated as having limited capability for work-related activity under Part 6 of the ESA Regulations 2008; or
- (d) has or is to be treated as having limited capability for work-related activity under Part 6 of the ESA Regulations 2013.

F4 Words in Sch. 2 para. 4 inserted (23.6.2017) by [The Employment and Support Allowance \(Miscellaneous Amendments and Transitional and Savings Provision\) Regulations 2017 \(S.I. 2017/581\)](#), regs. 1, **9(b)**

Claimants where their award becomes payable before 3rd April 2017

5. The fourth circumstance is where the claimant becomes entitled to an employment and support allowance before 3rd April 2017 by virtue of—

- (a) regulation 19(1) and paragraph 16 of Schedule 4 to the Social Security (Claims and Payments) Regulations 1987; or
- (b) regulation 28 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013⁽⁷⁾.

Claimants where their assessment phase begins before 3rd April 2017

6. The fifth circumstance is where the first day of the claimant's assessment phase began before 3rd April 2017 by virtue of—

- (a) regulation 5 of the ESA Regulations 2008; or
- (b) regulation 6 of the ESA Regulations 2013.

Claimants where they have been entitled to maternity allowance

7. The sixth circumstance is where—

⁽⁶⁾ [S.I. 2010/1907](#).
⁽⁷⁾ [S.I. 2013/380](#).

Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017, PART 1. (See end of Document for details)

- (a) a claimant was entitled to a maternity allowance under section 35 of the Social Security Contributions and Benefits Act 1992⁽⁸⁾ and the end of that award is within 12 weeks beginning with the date that the claim for an employment and support allowance is made; and
- (b) immediately prior to their entitlement to a maternity allowance beginning the claimant was previously entitled to an employment and support allowance before 3rd April 2017.

⁽⁸⁾ 1992 c.4; amended by S.I. 2014/606, section 53(1) of the Welfare Reform and Pensions Act 1999 (c. 30), paragraphs 4(1) and (2) of Schedule 7 to the Employment Act 2002 (c. 22), section 63(2) of the Welfare Reform Act 2012 (c. 5), paragraph 6 of Schedule 1 to the Work and Families Act 2006 (c. 18), section 120(2) and (3) of the Children and Families Act 2014 (c. 6), and section 2(1) of the Still-Birth (Definition) Act 1992 (c. 29).

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017, PART 1.