

SCHEDULE 3

Article 10

MODIFICATIONS OF THE 2010 TRANSITIONAL REGULATIONS

1. The 2010 Transitional Regulations are to be read as if the amendments set out in this Schedule were made.
2. In regulation 2 (interpretation)—
 - (a) in paragraph (1)—
 - (i) after the definition of “the Claims and Payments Regulations” insert—

““the Claims and Payments Regulations 2016” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(1);”;
 - (ii) after the definition of “conversion decision” insert—

““the Decisions and Appeals Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016(2);”;
 - (iii) after the definition of “the Employment and Support Allowance Regulations” insert—

““the Employment and Support Allowance Regulations 2016” means the Employment and Support Allowance Regulations (Northern Ireland) 2016(3);”;
 - (iv) omit the definition of “income-related allowance”;
 - (v) omit paragraph (a) of the definition of “relevant deduction”;
 - (vi) in the definition of “benefit week”, for “the Employment and Support Allowance Regulations” substitute “the Employment and Support Allowance Regulations 2016”.
 - (b) in paragraph (3), omit “or awards”.
3. In regulation 4 (the notice commencing the conversion phase), omit paragraph (6).
4. In regulation 5 (deciding whether an existing award qualifies for conversion)—
 - (a) in paragraph (1), omit “or awards”;
 - (b) in paragraph (2)(a), for “or awards qualify” substitute “qualifies”;
 - (c) in paragraph (2)(b), for “or awards do” substitute “does”;
 - (d) in paragraph (6)(b), omit “or awards”.
5. In regulation 6(2) (application of certain statutory provisions for purpose of making conversion decisions), for sub-paragraphs (c), (d) and (e) substitute—
 - “(c) the Decision and Appeals Regulations;
 - (d) the Employment and Support Allowance Regulations 2016;
 - (e) regulation 37(2) and (3) of the Claims and Payments Regulations 2016 (evidence and information in connection with an award).”.

(1) S.R. 2016 No. 220.

(2) S.R. 2016 No. 221.

(3) S.R. 2016 No. 219.

Status: This is the original version (as it was originally made).

6. In regulation 7 (qualifying for conversion)(4)—
 - (a) in paragraph (1)—
 - (i) omit “or awards”;
 - (ii) for “qualify” substitute “qualifies”;
 - (b) in paragraphs (2)(b) and (3)(b), for “regulation 30 of the Employment and Support Allowance Regulations” substitute “regulation 26 of the Employment and Support Allowance Regulations 2016”.
7. In regulation 8(1) (amount of an employment and support allowance on conversion)(5), after “the Employment and Support Allowance Regulations” insert “2016”.
8. In regulation 9(1) (determining entitlement to a transitional addition)—
 - (a) for “or awards qualify” substitute “qualifies”;
 - (b) omit “or 11(2)”.
9. In regulation 10 (transitional addition: incapacity benefit or severe disablement allowance)—
 - (a) in paragraph (1), omit “and for the purpose of this regulation it is irrelevant whether the person is also entitled to any existing award of income support”;
 - (b) in paragraph (4)(a), for “regulation 67(2) of the Employment and Support Allowance Regulations (prescribed amounts for purpose of calculating a contributory allowance)” substitute “regulation 62(1) of the Employment and Support Allowance Regulations 2016 (prescribed amounts)”.
10. Omit regulation 11 (transitional addition: income support).
11. In regulation 12 (regulations 10 and 11: supplementary)—
 - (a) in the title, for “Regulations 10 and 11” substitute “Regulation 10”;
 - (b) in paragraph (1), for “regulations 10 and 11” substitute “regulation 10”;
 - (c) in paragraph (2), for “Amounts A and C are” substitute “Amount A is” and for “Amounts B and D are” substitute “Amount B is”;
 - (d) for paragraph (3)(a) substitute—

“(a) by virtue of an order made under section 132 of the Administration Act (annual up-rating of benefits), there is an increase in the weekly rate which, in accordance with regulation 10(3) (transitional addition: incapacity benefit or severe disablement allowance), is to be used to calculate Amount A; and”;
 - (e) in paragraph (4)(a), for “paragraph (3)(a)(i) or (ii)” substitute “paragraph (3)(a)”;
 - (f) in paragraphs (3) and (4), omit “or C” and “or applicable amount, as the case may be,”.
12. In regulation 13(3) (the effective date of a conversion decision), omit “or awards”.
13. In regulation 14 (conversion decision that existing award qualifies for conversion)(6)—
 - (a) in paragraph (1)—
 - (i) for “Subject to paragraph (2A), paragraphs (2) to (6)” substitute “Paragraphs (2) to (5)”;
 - (ii) for “or awards qualify” substitute “qualifies”;
 - (b) for paragraph (2) substitute—

(4) Regulation 7 was amended by regulation 2(3) of [S.R. 2010 No. 347](#) and regulation 9(2) of [S.R. 2016 No. 175](#).

(5) Regulation 8(1) was inserted by regulation 2(4)(a) of [S.R. 2010 No. 347](#).

(6) Regulation 14 was amended by regulation 2(6) of [S.R. 2010 No. 347](#).

“(2) On the effective date of the conversion decision P’s existing award is by virtue of this paragraph converted into, and shall have effect on and after that date as, a single award of an employment and support allowance of such amount as is specified in the conversion decision.”;

- (c) omit paragraphs (2A), (2B) and (6);
- (d) in paragraph (4), omit “or awards”;
- (e) for paragraph (7) substitute—

“(7) In this regulation paragraphs (2) to (5) are subject to regulation 17 (changes of circumstances before the effective date).”.

14. In regulation 15 (conversion decision that existing award does not qualify for conversion)(7)—

- (a) in paragraph (1)—
 - (i) for “Subject to paragraphs (2A) and (4), paragraphs (2), (3) and (6)” substitute “Subject to paragraph (4), paragraphs (2) and (3);
 - (ii) for “or awards do” substitute “does”;
- (b) for paragraph (2) substitute—

“(2) P’s entitlement to an existing award of incapacity benefit or severe disablement allowance shall terminate by virtue of this paragraph immediately before the effective date of P’s conversion decision.”;

- (c) omit paragraphs (2A), (2B) and (6);
- (d) in paragraph (4)(a)—
 - (i) for “the Employment and Support Allowance Regulations” substitute “the Employment and Support Allowance Regulations 2016”;
 - (ii) in paragraph (i), for “regulation 22(1)” substitute “regulation 18(1)”;
 - (iii) in paragraph (ii) ,for “regulation 23(2) (failure to attend for a medical examination to determine whether the claimant has limited capability for work)” substitute “regulation 19(2) (claimant may be called for a medical examination to determine whether the claimant has limited capability for work)”;
- (e) in paragraph (5)—
 - (i) in sub-paragraph (c), omit “or awards”;
 - (ii) in sub-paragraph (d), omit “or those existing awards”;
- (f) for paragraph (7) substitute—

“(7) In this regulation paragraphs (2) and (3) are subject to regulation 17 (changes of circumstances before the effective date).”.

15. In regulation 16 (application of other statutory provisions applying to employment and support allowance)(8)—

- (a) in paragraph (1A)(b), for “regulation 145(1) of the 2008 Regulations” substitute “regulation 86 of the Employment and Support Allowance Regulations 2016”;
- (b) for paragraph (2)(e) substitute—
 - “(e) the Employment and Support Allowance Regulations 2016;”.

(7) Regulation 15 was amended by regulation 2(7) of [S.R. 2010 No. 347](#).

(8) Regulation 16 was amended by regulation 19 of [S.R. 2012 No. 121](#).

Status: This is the original version (as it was originally made).

16. In regulation 17 (changes of circumstances before the effective date)**(9)**—
- (a) omit “or awards” in both places it occurs;
 - (b) in paragraph (a)(ii)—
 - (i) omit “regulation 14(2B)(a) (termination of an existing award of incapacity benefit or severe disablement allowance where entitlement to award of income support continues),”;
 - (ii) for “(termination of existing awards which do not qualify for conversion)” substitute “(termination of an existing award which does not qualify for conversion)”;
 - (c) omit paragraph (ab).
17. In regulation 18 (reducing the transitional addition: general rule), for paragraph (2) substitute—
- “(2) For the purposes of paragraph (1), a relevant increase is an increase in any amount applicable to the person under regulation 62(1) or (2) of the Employment and Support Allowance Regulations 2016, which is not excluded by paragraph (3).”.
18. In regulation 21 (termination of transitional addition)**(10)**—
- (a) in paragraph (1)(b)—
 - (i) for “, (3A) and (4)” substitute “ and (3A)” ;
 - (ii) omit “an employment and support allowance which arises from section 1(2)(a) or (b) of the Act, or to” and “or to an income-related allowance”;
 - (b) omit paragraph (4);
 - (c) in paragraph (5)(a), for “regulation 145(1) of the Employment and Support Allowance Regulations (linking rules)” substitute “regulation 86 of the Employment and Support Allowance Regulations 2016 (linking period)”;
 - (d) in paragraph (5)(c)(ii), for “regulation 30 of those Regulations” substitute “regulation 26 of those Regulations”;
 - (e) in paragraph (5A)(c), for “regulation 145(1) of the Employment and Support Allowance Regulations (linking rules)” substitute “regulation 86 of the Employment and Support Allowance Regulations 2016 (linking period)”;
 - (f) omit paragraph (6);
 - (g) in paragraph (7)—
 - (i) for “, 1A and 2” substitute “and 1A”;
 - (ii) omit “or additions, as the case may be,” in both places where it occurs;
 - (iii) for “an allowance which is referred to in paragraph (1)(b)” substitute “a contributory allowance”.
19. In regulation 22 (disapplication of certain enactments following conversion decision), omit paragraphs (c) and (d).
20. In Schedule 1 (modification of statutory provisions: making conversion decisions)—
- (a) in paragraph 1—
 - (i) in sub-paragraph (b)(i), for the modified section 1(2) substitute**(11)**—

(9) Regulation 17 was amended by regulation 2(8) of S.R. 2010 No. 347 and regulation 25(3) of S.R. 2011 No. 357.

(10) Regulation 21 was amended by regulation 2(11) of S.R. 2010 No. 347, regulation 3 of S.R. 2012 No. 160, regulation 9(3) of S.R. 2016 No. 175 and regulation 5 of S.R. 2016 No. 176.

(11) Sub-paragraph (b)(i) was substituted by regulation 2(13)(a) of S.R. 2010 No. 347.

- “(2) Subject to the provisions of this Part, a notified person is entitled to an employment and support allowance if the person satisfies the basic conditions and is entitled to an existing award of incapacity benefit or severe disablement allowance.”;
- (ii) for sub-paragraph (e) substitute—
- “(e) Schedule 1 to the 2007 Act is to be read as if paragraphs 1 to 6 were omitted.”;
- (b) in the heading to Part 2, after “the Employment and Support Allowance Regulations” insert “2016”;
- (c) in paragraph 2—
- (i) in the introductory words, after “Regulations” insert “2016”;
- (ii) in sub-paragraph (c), for “regulation 30” substitute “regulation 26”;
- (iii) omit sub-paragraph (ca)(12);
- (iv) in sub-paragraph (d), for “regulation 75” substitute “regulation 68”;
- (v) in sub-paragraph (e), for “regulation 144” substitute “regulation 85”;
- (d) in the sub-heading to Part 3, after “Regulations” insert “2016”;
- (e) in paragraph 3—
- (i) for “Regulation 32 of the Claims and Payments Regulations” substitute “Regulation 37 of the Claims and Payments Regulations 2016”;
- (ii) in sub-paragraph (a), for “paragraph (1)” substitute “paragraph (2)”;
- (iii) in sub-paragraph (b), for “paragraph (1A)” substitute “paragraph (3)”.

21.—(1) The following amendments to Schedule 2 (modification of enactments: after the conversion phase).

(2) In paragraph 1—

- (a) in sub-paragraph (b)(i) in the modified section 1(2)—
- (i) in paragraph (a), for “or awards into a single award of employment and support allowance” substitute “into an award of an employment and support allowance; and”;
- (ii) at the end of paragraph (b), for “; and” substitute “;”;
- (iii) omit paragraph (c);
- (iv) in sub-paragraph (b)(ii) in the modified section 1(7)—
- (aa) for the definition of “contributory allowance” substitute—
- ““employment and support allowance” means an employment and support allowance to which a person is entitled by virtue of the Existing Awards Regulations which was based on an award of incapacity benefit or severe disablement allowance to which the person was entitled.”
- (bb) omit the definition of “income-related allowance”;
- (v) in sub-paragraph (ba)—
- (aa) in sub-paragraph (i), omit “contributory”; and
- (bb) in sub-paragraph (ii) in the substituted section 1A—
- (cc) in paragraphs (1) and (3) to (5), for “a contributory allowance” substitute “an employment and support allowance”; and

(12) Sub-paragraph (ca) was inserted by regulation 2(13)(b) of [S.R. 2010 No. 347](#).

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- (dd) in paragraph (3), omit “Part 1 of”;
 - (vi) in sub-paragraph (c)(ii), for “regulation 147A of the Employment and Support Allowance Regulations” substitute “regulation 87 of the Employment and Support Allowance Regulations 2016”;
 - (vii) omit sub-paragraphs (d) and (f).
- (3) In the heading to Part 2, after “Regulations” insert “2016”;
- (4) In paragraph 4—
- (a) after “Regulations” insert “2016”;
 - (b) in sub-paragraph (b), for “regulation 147A of those Regulations” substitute “regulation 87 of those Regulations”;
 - (c) in sub-paragraph (c), for “regulation 30” substitute “regulation 26”;
 - (d) for sub-paragraph (e) substitute—
 - “(e) regulation 39 (exempt work) is to be read as if, in the definition of “work period” in paragraph (6), after “referred to in paragraph (1)(c)”, in both places where it occurs, there were inserted “, or any work done in accordance with regulation 17(4) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(13)”;
 - (e) for sub-paragraph (f) substitute—
 - “(f) Regulation 67 (prescribed amounts) is to be read as if, in paragraph (1), for sub-paragraphs (a) and (b) there were substituted—
 - (a) (i) where the claimant satisfies the conditions set out in section 2(2) or (3) of the Act, £73.10; or
 - (ii) where the claimant does not satisfy the conditions set out in section 2(2) or (3) of the Act—
 - (aa) where the claimant is aged not less than 25, £73.10; or
 - (bb) where the claimant is aged less than 25, £57.90; and
 - (b) the amount of any transitional addition to which the person is entitled under regulation 10 of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010.”;
 - (f) omit sub-paragraph (g);
 - (g) in sub-paragraph (h), for “regulation 75” substitute “regulation 68”;
 - (h) in sub-paragraph (i)—
 - (i) in the introductory words, for “regulation 147A” substitute “regulation 87”;
 - (ii) in the inserted regulation—
 - (aa) in the description of the number of the regulation, for “147A.—” substitute “87.—”;
 - (bb) in paragraph (2), for “regulation 19” substitute “regulation 15”;
 - (cc) in paragraph (4)(a), for “regulation 22 or 23” substitute “regulation 18 or 19”;
 - (dd) for “regulation 30”, in all places where it occurs, substitute “regulation 26”;
 - (ee) in paragraph (5)(c), for the words from “, struck out” to “(making of appeals and application)” substitute “or struck out”;

(13) Regulation 17(4) was amended by regulation 6(4)(a) of [S.R. 2011 No. 135](#) and regulation 2(a) of [S.R. 2017 No. 50](#).

- (ff) in paragraph (6), for “either—” and sub-paragraphs (a) and (b) substitute “receives the Appeal Tribunal’s notification that the appeal is dismissed, withdrawn or struck out.”;
- (i) omit sub-paragraph (j).
- (5) In paragraph 5—
 - (a) in the introductory words, after “Regulations” insert “2016”;
 - (b) for sub-paragraph (b) substitute—
 - “(b) Regulation 6 (claims not required for entitlement to an employment and support allowance in certain areas) is to read as if after paragraph (1) there were inserted—
 - “(1A) It is also not to be a condition of entitlement to an employment and support allowance that a claim be made for it where any of the following conditions are met—
 - (a) the claimant—
 - (i) has made and is pursuing an appeal against a conversion decision made by virtue of the Existing Awards Regulations which embodies a determination that the beneficiary does not have limited capability for work; or
 - (ii) was entitled to an employment and support allowance by virtue of the Existing Awards Regulations and has made and is pursuing an appeal against a later decision which embodies a determination that the claimant does not have limited capability for work; or
 - (b) the claimant is entitled to an existing award which is subject to conversion under the Existing Award Regulations.”.”.
 - (c) in sub-paragraph (c), for “regulation 26C” substitute “regulation 46”;
 - (d) in sub-paragraph (d)—
 - (i) for “regulation 32(1B)” substitute “regulation 37(4)”;
 - (ii) in paragraph (i), for the words “sub-paragraph (a)” substitute “sub-paragraph (b)”;
 - (iii) in paragraph (ii), for “(ab)” substitute (bb);
 - (e) omit sub-paragraph (e);
 - (f) in sub-paragraph (f), for “Schedule 8C” substitute “Schedule 6”.
- 22. In Schedule 3 (regulations that apply after the conversion phase)—
 - (a) for “The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987” substitute “the Claims and Payments Regulations 2016”;
 - (b) for “The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999” substitute “the Decisions and Appeals Regulations”.