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## EXPLANATORY NOTE

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

The regulations contained in this Instrument are made by virtue of or consequential on provisions in the Welfare Reform Act 2007 (c. 5) (“the 2007 Act”). This Instrument is made before the expiry of the period of 6 months beginning with the coming into force of those provisions; 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.

Part 1 of these Regulations amends the Employment and Support Allowance Regulations 2008 (“the principal Regulations”) from the date the principal Regulations come into force.

Regulations 3(a), 8(3), 8(4) and 8(6) remove references to “starting rate” and where appropriate replaces them with “basic rate” to reflect that as from April 2008, the starting rate of tax was abolished and taxation commences at the basic rate.

Regulation 5 ensures that, when an Employment and Support Allowance (“ESA”) claimant receives a training allowance, benefit entitlement is lost.

Regulations 6(2), 7(3) and 19 increase the earnings limit from £88.50 to £92.00 a week.

Regulation 7 makes provision for deductions from ESA (Contributory) to be made where the claimant is in receipt of a payment under the Financial Assistance Scheme.

Regulation 9 amends the requirement for a claimant to serve waiting days when he or she is a member of a couple, one of whom is already in receipt of income-related ESA.

Regulation 18 aligns the treatment of concessionary payments with the Housing Benefit and Council Tax Benefit provisions. Concessionary payments in lieu of income-based jobseeker’s allowance or contributory ESA will now be taken into account.

Part 2 further amends the principal regulations to reflect child maintenance reform.

This part makes provision for all payments of child maintenance income to be treated equally and taken into account in the same manner regardless of source. This part also increases the disregard on child maintenance income to £20 per household and extends the disregard to all forms of child maintenance.

Part 3 of these Regulations makes miscellaneous amendments.

Regulations 21 to 23 make consequential amendments by adding references to employment and support allowance to—

- the Social Security Administration Act 1992;
- the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988;
- the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983.

Regulations 24 to 40 make amendments to the Employment and Support Allowance (Consequential Provisions) Regulations 2008 which made amendments in consequence of the introduction of employment and support allowance by the 2007 Act.

Regulation 25 amends the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 in respect of Housing Benefit.

Regulations 26 to 35 amend provisions that relate to Housing Benefit.

Regulations 36 to 40 amend provisions that relate to Council Tax Benefit.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 41 amends the Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (which made amendments in consequence of the introduction of employment and support allowance by the 2007 Act) in respect of provisions that relate to Income Support, Jobseeker's Allowance and State Pension Credit.

Regulation 42 amends the Employment and Support Allowance (Transitional Provisions) Regulations 2008 to enable certain disabled workers to claim income support if they are not entitled to employment and support allowance.

The Regulations make other minor amendments to the principal regulations which correct errors or make necessary changes to ensure consistency.

A full impact assessment has not been published for these Regulations as they have no impact on the private or voluntary sectors.