
STATUTORY INSTRUMENTS

2010 No. 2430

The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) (Amendment) Regulations 2010

Migration Regulations: insertion of regulation 23A (termination of entitlement to the disability premium for persons incapable of work: income support)

14. After regulation 23 (treatment of claims until coming into force of regulation 24), insert—

“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⁽¹⁾,

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

(1) An award of income support under paragraph 7(a) or (b) of Schedule 1B to the Income Support (General) Regulations 1987 is an “existing award” by virtue of paragraph 11 of Schedule 4 to the 2007 Act. Paragraphs 7(a) and (b) were revoked with savings by regulation 2 of [S.I. 2009/3152](#), with effect from 30th December 2009.

(2) In paragraph 12, sub-paragraph (1)(b) was substituted by regulation 17(a) of [S.I. 1995/482](#) and has been amended but not in a way material to these Regulations; sub-paragraph (1A) was inserted by regulation 13(3)(b) of [S.I. 1998/2231](#) and was amended by regulation 5(7) of [S.I. 2006/2378](#) and sub-paragraph (5) was inserted by regulation 17(b) of [S.I. 1988/2022](#) and was amended by regulation 6(e) of [S.I. 1989/1678](#).