
STATUTORY INSTRUMENTS

2010 No. 875

The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) Regulations 2010

PART 2

CONVERSION DECISIONS

Transitional addition: incapacity benefit or severe disablement allowance

10.—(1) This regulation applies to any notified person who is entitled to an existing award of incapacity benefit or severe disablement allowance (and for these purposes it is irrelevant whether the person is also entitled to any existing award of income support).

(2) In any case falling within paragraph (1)—

(a) the notified person shall be entitled to a transitional addition if Amount A exceeds Amount B; and

(b) the amount of transitional addition to which the notified person is entitled under this paragraph shall be equal to the amount of any such excess.

(3) Amount A is the amount of the weekly rate of the existing award applicable to the notified person.

(4) To calculate Amount B—

(a) take the amount prescribed under paragraph (2) of regulation 67 of the 2008 Regulations (prescribed amounts for purpose of calculating a contributory allowance) which is applicable to the notified person; and

(b) add the amount of the applicable component determined in accordance with regulation 12(5).

(5) In paragraph (3), the reference to the weekly rate of an existing award applicable to the notified person is to—

(a) in the case of incapacity benefit, the weekly rate payable—

(i) under section 30B(2), (6) or (7) of the Contributions and Benefits Act⁽¹⁾ (incapacity benefit: rate),

(ii) under section 40(5) or 41(4) of the Contributions and Benefits Act⁽²⁾ (long-term incapacity benefit for widows and for widowers),

(1) 1992 c. 4. “Contributions and Benefits Act” is defined in section 65 of the Welfare Reform Act 2007. Section 30B was inserted by section 2(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18) and is to be repealed by paragraph 9(5) of Schedule 3 to the Welfare Reform Act 2007.

(2) Sections 40 and 41 were substituted by paragraphs 8 and 9 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994. They are to be repealed by Schedule 8 to the Welfare Reform Act 2007.

Status: This is the original version (as it was originally made).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

- (iii) by virtue of regulation 11(4) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995⁽³⁾ (former sickness benefit), or
- (iv) by virtue of regulation 17(1) of those Regulations (former invalidity benefit);
- (b) in the case of severe disablement allowance, the weekly rate payable under sections 68(7) and 69(1) of the Contributions and Benefits Act (as they have effect by virtue of article 4 of the Welfare Reform and Pensions Act 1999 (Commencement No.9 and Transitional and Savings Provisions) Order 2000⁽⁴⁾).

⁽³⁾ S.I. 1995/310.

⁽⁴⁾ S.I. 2000/2958 (C. 89).