
STATUTORY INSTRUMENTS

2008 No. 1554

The Employment and Support Allowance
(Consequential Provisions) (No. 2) Regulations 2008

PART 5

Miscellaneous Amendments

CHAPTER 3

Adjustments and Deductions

Amendment of the Social Security (Recovery of Benefits) Act 1997

50.—(1) The Social Security (Recovery of Benefits) Act 1997(1) is amended as follows.

(2) In section 29(2) (general interpretation) in the definition of “benefit” after “a jobseeker’s allowance” insert “, an employment and support allowance”.

(3) In Schedule 2(3) (calculation of compensation payment) in column (2) (benefit) after the entry “Disablement pension payable under section 103 of the 1992 Act” insert the entry “Employment and support allowance”.

Amendment of the Social Security (Overlapping Benefits) Regulations 1979

51.—(1) The Social Security (Overlapping Benefits) Regulations 1979(4) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “contributory benefit”(5) for “ and a contribution-based jobseeker’s allowance” substitute “a contribution-based jobseeker’s allowance and a contributory employment and support allowance”;

(b) in the definition of “personal benefit”(6) after “includes” insert “a contributory employment and support allowance but not an income-related employment and support allowance and includes”; and

(c) after the definition of “1914-1918 War Injuries Scheme” insert—

““the Welfare Reform Act” means the Welfare Reform Act 2007.”.

(3) In regulation 4(1)(a)(7) (adjustment of personal benefit etc.) after “industrial injuries benefits” insert “, Part 1 of the Welfare Reform Act”.

(1) 1997 c. 27.

(2) Section 29 was amended by the Social Security Act 1998 (c.14).

(3) Schedule 2 was amended by the Tax Credits Act 1999 (c. 10).

(4) S.I. 1979/597.

(5) Definition was inserted by S.I. 1996/1345.

(6) Definition was amended by S.I. 2005/1551.

(7) Paragraph (1) was substituted by S.I. 1992/3194 and amended by S.I. 1996/1345.

(4) In regulation 10(1)(8) (adjustment of dependency benefit where certain personal benefit is payable) after sub-paragraph (j) add—

“(k) a contributory employment and support allowance.”.

(5) In regulation 16(9) (persons to be treated as entitled to benefit for certain purposes)—

(a) after “the Act” the first time it occurs insert “, Part 1 of the Welfare Reform Act”; and

(b) after “under it,” the first time it occurs insert “ Part 1 of the Welfare Reform Act and regulations made under it”.

(6) In regulation 17(10) (prevention of double adjustments) for “or under the Jobseekers Act” each time it occurs substitute “, the Jobseekers Act or Part 1 of the Welfare Reform Act”.

(7) In Schedule 1(11) (personal benefits which are required to be adjusted etc.) in column (1) (personal benefit under the Act) in paragraph 4, after “severe disablement allowance” insert “, contributory employment and support allowance”.

Amendment of the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988

52.—(1) The Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988(12) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) in the definition of “benefit”(13) after “state pension credit” insert “, an employment and support allowance”;

(b) after the definition of “disabled person’s tax credit”(14) insert—

““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”;

(c) after the definition of “tax credit” insert—

““the Welfare Reform Act” means the Welfare Reform Act 2007;”.

(3) In regulation 2(4)(15) (making of interim payments) after “income support” insert “or income-related employment and support allowance”.

(4) In regulation 4(3)(c)(16) (recovery of overpaid interim payments) after “income support” insert “or income-related employment and support allowance”.

(5) In regulation 5(3)(17) (offsetting prior payment against subsequent award) after “income-based jobseeker’s allowance” insert “or an income-related employment and support allowance”.

(6) In regulation 7 (duplication and prescribed income)—

(a) in paragraph (1)(a)(18) after “Part III of the State Pension Credit Regulations” insert “or Part 10 of the Employment and Support Allowance Regulations”; and

(b) in paragraph (1)(b) after “(child support maintenance)” insert “or Chapter 9 of Part 10 to the Employment and Support Allowance Regulations (child support)”.

(8) Paragraph (1) was amended by S.I. 1980/1927, 1982/1173, 1983/186, 1991/387, 1992/3194, 1996/1345 and by virtue of the Employment Act 1998 (c. 38).

(9) Regulation 16 was amended by S.I. 1996/1345.

(10) Regulation 17 was amended by S.I. 1996/1345

(11) Schedule 1 was amended by S.I. 1983/186, 1984/1303, 1995/829, 1996/1345, 2000/1483 and 2005/2877.

(12) S.I. 1988/664.

(13) Definition was amended by S.I. 1988/1725, 1989/136, 1995/829, 1996/1345 and 2002/3019.

(14) Definition was substituted by S.I. 1999/2571.

(15) Regulation 2 was amended by S.I. 1991/2742, 1993/650, 1996/30, 1999/3178 and 2005/337.

(16) Paragraph (3) was amended by S.I. 1996/650.

(17) Regulation 5 was amended by S.I. 1996/1345, 1999/2571 and 1999/3178, 2000/3120, 2002/3019, 2005/1551 and 2006/516.

(18) Paragraph (1) was amended by S.I. 1993/650, 1996/1345 and 2002/3019.

- (7) In regulation 8 (duplication and prescribed payments)—
- (a) in paragraph (1)(**19**), after sub-paragraph (k) add—
 - “(l) a contributory employment and support allowance.”; and
 - (b) in paragraph (2)(**20**) after “income-based jobseekers allowance” add “or income-related employment and support allowance”.
 - (8) In regulation 13(1)(b)(**21**) (sums to be deducted in calculating recoverable amounts) after “income-based jobseeker’s allowance” insert “or income-related employment and support allowance”.
 - (9) In regulation 14(**22**) (quarterly diminution of capital) after “or an income-based jobseeker’s allowance” each time it occurs insert “, or income-related employment and support allowance”.
 - (10) In regulation 15(2)(d)(**23**) (recovery by deduction from prescribed benefits) after “income support,” insert “an employment and support allowance,”.
 - (11) In regulation 16 (limitations on deductions from prescribed benefits)—
 - (a) in paragraph (4A)(**24**) after sub-paragraph (d) add—
 - “(e) an income-related employment and support allowance;
 - (f) where, if there was no entitlement to a contributory employment and support allowance, there would be entitlement to an income-related employment and support allowance at the same rate, a contributory employment and support allowance.”;
 - (b) in paragraph (6)(**25**) after sub-paragraph (c) add—
 - “or
 - (d) in the calculation of the income of a person to whom income-related employment and support allowance is payable, the amount of earnings or other income falling to be taken into account is reduced by paragraph 7 of Schedule 7 to the Employment and Support Allowance Regulations (sums to be disregarded in the calculation of earnings) or paragraphs 16 and 17 of Schedule 8 to those Regulations (sums to be disregarded in the calculation of income other than earnings),”; and
 - (c) in paragraph (8)(**26**)—
 - (i) in the definition of “personal allowance for a single claimant aged not less than 25” for “either” substitute “an employment and support allowance,”; and
 - (ii) in the definition of “specified benefit”—
 - (aa) after paragraph (d) omit “and”; and
 - (bb) after paragraph (e) add—
 - “and
 - (f) an employment and support allowance,”.

(19) Paragraph (1) was amended by S.I. 1991/387 and 1999/2571, 2742 and 3178, 2000/1483, 2005/337 and 3476 and by virtue of the Employment Act 1988.

(20) Paragraph (2) was amended by S.I. 1996/1345, 1999/3178 and 2002/3019.

(21) Paragraph (1) was amended by S.I. 1996/1345, 1999/2571 and 2002/3019.

(22) Regulation 14 was amended by S.I. 1996/1345 and 1996/2519, 1999/2571 and 2002/3019.

(23) Sub-paragraph (2)(d) was amended by S.I. 1996/2519 and 2002/3019.

(24) Paragraph (4A) was inserted by S.I. 1996/2519 and amended by S.I. 2002/3019.

(25) Paragraph (6) was amended by S.I. 1996/1345 and 2002/3019.

(26) Paragraph (8) was amended by S.I. 2000/2336 and 2002/3019.

(12) In regulation 17(27) (recovery from couples) after “income-based jobseeker’s allowance” each time it occurs insert “or income-related employment and support allowance”.

Amendment of the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990

53.—(1) The Community Charges (Deductions from Income Support) (No. 2) Regulations 1990(28) are amended as follows.

(2) In regulation 2 (applications for deductions etc.)—

- (a) in the heading for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”;
- (b) in paragraph (1) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”; and
- (c) in paragraph (2)(e) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”.

(3) In regulation 3—

- (a) in the heading for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”; and
- (b) in paragraph (1) for “or income-based jobseeker’s allowance” substitute “, income-based jobseeker’s allowance or income-related employment and support allowance”.

(4) In regulation 4 (circumstances, time of making and termination of deductions) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”.

Amendment of the Fines (Deductions from Income Support) Regulations 1992

54.—(1) The Fines (Deductions from Income Support) Regulations 1992(29) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

- (a) in the definition of “benefit week”(30) after “1996” add “or regulation 2(1) of the Employment and Support Allowance Regulations”;
- (b) after the definition of “contribution-based jobseeker’s allowance”(31) insert—
 - ““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;”;
- (c) after the definition of “court” insert—
 - ““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”;
- (d) after the definition of “income-based jobseeker’s allowance”(32) insert—
 - ““income-related employment and support allowance” means—
 - (a) an income-related allowance under Part 1 of the Welfare Reform Act; and
 - (b) in a case where, if there was no entitlement to contributory employment and support allowance, there would be entitlement to income-related employment

(27) Regulation 17 was amended by S.I. 1996/1345, 1999/2571, 2002/3019, 2003/492 and 2005/2877.

(28) S.I. 1990/545.

(29) S.I. 1992/2182.

(30) Definition was amended by S.I. 1996/2344 and 2002/3019.

(31) Definition inserted by S.I. 1996/563.

(32) Definition inserted by S.I. 1996/563.

- and support allowance at the same rate, contributory employment and support allowance;”;
- (e) in the definition of “personal allowance for a single claimant aged not less than 25”, after sub-paragraph (b), insert—
- “(c) in the case of a person who is entitled to an income-related employment and support allowance, the amount specified for the time being in paragraph 1(1)(b) of column 2 of schedule 4 to the Employment and Support Allowance Regulations;”;
- (f) in the definition of “social security office”(33) for “or a jobseeker’s allowance” substitute “, a jobseekers allowance or an employment and support allowance”; and
- (g) after the definition of “tribunal”(34) insert —
- ““the Welfare Reform Act” means the Welfare Reform Act 2007;”.
- (3) In regulation 2(35) (application for deductions) for “jobseeker’s allowance” each time it occurs substitute “, jobseeker’s allowance or employment and support allowance”.
- (4) In regulation 2A(2)(36) (information that the court or fines officer may require) for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or an employment and support allowance”.
- (5) In regulation 4(37) (deductions from offender’s income support etc.) —
- (a) in paragraph (1)(a) for “or income-based jobseeker’s allowance” substitute “, income-based jobseeker’s allowance or income-related employment and support allowance”;
- (b) in paragraph (2)—
- (i) in sub-paragraph (a) after “jobseeker’s allowance” insert “or contributory employment and support allowance”; and
- (ii) for sub paragraph (b) substitute—
- “(b) the amount payable, before any deductions under this paragraph, of—
- (i) contribution-based jobseeker’s allowance is equal to or more than one-third of the age related amount applicable to the offender under section 4 (1) (a) of the Jobseekers Act; or
- (ii) contributory employment and support allowance is equal to or more than one third of the amount applicable to the offender under section 2(1)(a) of the Welfare Reform Act,
- as the case may be,”; and
- (iii) after “Jobseekers Act” the second time it occurs insert “or under section 2 (1)(a) of the Welfare Reform Act”.
- (6) In regulation 7(38) (circumstances, time of making and making of deductions) for “or jobseeker’s allowance” each time it occurs substitute “, jobseeker’s allowance or employment and support allowance”.

(33) Definition was amended by [S.I. 2002/1397](#).

(34) Definition substituted by [S.I. 1999/3178](#).

(35) Regulation was amended by [S.I. 1996/2344](#), [2002/3019](#).

(36) Regulation was inserted in relation to England and Wales by [S.I. 2004/2889](#).

(37) Regulation was substituted by [S.I. 1999/3178](#) and amended by [S.I. 2002/3019](#) and [2004/2889](#).

(38) Regulation was amended by [S.I. 1996/2344](#), [1999/3178](#) and [2002/3019](#).

Amendment of the Council Tax (Deductions from Income Support) Regulations 1993

55.—(1) The Council Tax (Deductions from Income Support) Regulations 1993(39) are amended as follows.

- (2) In regulation 1(2) (citation, commencement and interpretation) —
- (a) in the definition of “benefit week” after “State Pension Credit Regulations 2002” insert “, regulation 2(1) of the Employment and Support Allowance Regulations 2008”;
 - (b) after the definition of “contribution-based jobseeker’s allowance” insert—
 - ““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
 - (c) after the definition of “income-based jobseeker’s allowance” insert—
 - ““income-related employment and support allowance” means—
 - (a) an income-related allowance under Part 1 of the Welfare Reform Act; and
 - (b) in a case where, if there was no entitlement to contributory employment and support allowance, there would be entitlement to income-related employment and support allowance at the same rate, contributory employment and support allowance;”;
 - (d) in the definition of “personal allowance for a single claimant aged not less than 25”—
 - (i) after sub-paragraph (a) omit “or”;
 - (ii) after sub-paragraph (b) add—
 - “or
 - (c) in the case of a person who is entitled to income-related employment and support allowance, the amount specified for the time being in paragraph 1 of column 2 of Schedule 4 to the Employment and Support Allowance Regulations 2008;”;
 - (e) in the definition of “social security office” for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or an employment and support allowance”;
 - (f) after the definition of “tribunal” insert—
 - ““the Welfare Reform Act” means the Welfare Reform Act 2007.”.
- (3) In regulation 2 (application for deductions... England and Wales)—
- (a) in the heading for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”; and
 - (b) for “or jobseeker’s allowance” each time it occurs substitute “, a jobseeker’s allowance or an employment and support allowance”;
- (4) In regulation 3 (application for deductions... Scotland)—
- (a) in the heading for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”;
 - (b) for “or jobseeker’s allowance” each time it occurs substitute “, a jobseeker’s allowance or an employment and support allowance”.
- (5) In regulation 4(1)(f) (contents of application) for “or jobseeker’s allowance” substitute “, a jobseeker’s allowance or an employment and support allowance”.
- (6) In regulation 5 (deductions from debtor’s income support etc.)—

- (a) in the heading for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”;
 - (b) in paragraph (1)(a) for “or income-based jobseeker’s allowance” substitute “, an income-based jobseeker’s allowance or an income-related employment and support allowance”;
 - and
 - (c) in paragraph (2)—
 - (i) in sub-paragraph (a) after “allowance” insert “or contributory employment and support allowance”; and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) the amount payable, before any deductions under this paragraph, of—
 - (i) contribution-based jobseeker’s allowance is equal to or more than one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseekers Act; or
 - (ii) contributory employment and support allowance is equal to or more than one-third of the amount applicable to the debtor under section 2(1)(a) of the Welfare Reform Act,
 - as the case may be,”; and
 - (iii) after “Jobseekers Act” the second time it occurs insert “or under section 2(1)(a) of the Welfare Reform Act”.
- (7) In regulation 8 (circumstances, time of making and termination of deductions)—
- (a) in paragraph (1)—
 - (i) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”;
 - (ii) for “regulation 7 or 7A” substitute “regulation 5”; and
 - (iii) in sub-paragraph (a) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”;
 - (b) in paragraph (2) for “or jobseeker’s allowance” each time it occurs substitute “, jobseeker’s allowance or employment and support allowance”;
 - (c) in paragraph (3) for “or jobseeker’s allowance” each time it occurs substitute “, jobseeker’s allowance or employment and support allowance”; and
 - (d) in paragraph (5) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or employment and support allowance”.

Amendment of the Social Security (Loss of Benefit) Regulations 2001

56.—(1) The Social Security (Loss of Benefit) Regulations 2001(40) are amended as follows.

- (2) In regulation 2 (disqualification period)—
- (a) in paragraph (1)(41)—
 - (i) in sub-paragraph (a)(iii) after “state pension credit” insert “, employment and support allowance”; and
 - (ii) in sub-paragraph (b)(iii) for “or state pension credit” substitute “, state pension credit or employment and support allowance”; and

(40) S.I. 2001/4022.

(41) Paragraph (1) was amended by S.I. 2002/486 and 1792.

- (b) in paragraph (3)(c)(42) after “state pension credit” insert “, employment and support allowance”.
- (3) In regulation 3 (reduction of income support)—
 - (a) in the heading after “income support” add “and income-related employment and support allowance”;
 - (b) in paragraph (1) after “income support” the first time it occurs insert “or an income-related employment and support allowance”;
 - (c) in paragraph (4) after “income support” each time it occurs insert “or an income-related employment and support allowance”;
 - (d) in paragraph (5) after “income support” insert “or an income-related employment and support allowance”; and
 - (e) in paragraph (6) after “Regulations” add “or, as the case may be, regulation 2(1) of the Employment and Support Allowance Regulations 2008”.

(42) Paragraph (3) was amended by [S.I. 2002/1792](#).