

## SCHEDULES

### SCHEDULE 1

Regulation 6(1)

Modification of enactments: making conversion decisions

#### PART 1

#### MODIFICATION OF PART 1 OF THE 2007 ACT

- 28.** Any reference to a claimant is to be read as if it were a reference to a notified person.
- 29.** Section 1 is to be read as if—
- (a) for subsection (2), there were substituted—

“(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—

    - (a) is entitled to an existing award of incapacity benefit or severe disablement allowance;
    - (b) is entitled to an existing award of income support and satisfies the conditions set out in Part 2 of Schedule 1, unless subsection (2)(c) applies; or
    - (c) is entitled to an existing award of income support by virtue of paragraph 10 (disabled students) or 12 (deaf students) of Schedule 1B to the Income Support (General) Regulations 1987 and satisfies the conditions set out in Part 2 of Schedule 1, with the exception of the condition in paragraph 6(1)(g).”; and
  - (b) subsection (3)(e) were omitted.
- 30.** Section 2 is to be read as if, in subsections (2)(a) and (3)(a), references to the assessment phase were to the conversion phase.
- 31.** Section 4 is to be read as if, in subsections (4)(a) and (5)(a), references to the assessment phase were to the conversion phase.
- 32.** Section 5 does not apply.
- 33.** Schedule 1 to the 2007 Act is to be read as if—
- (a) paragraphs 1 to 5 were omitted; and
  - (b) in paragraph 6, after sub-paragraph (1), there were inserted—

“(1A) Paragraphs (1B) and (1C) apply in relation to any person (“P”) whose existing award of income support is subject to conversion under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”).

(1B) In determining for the purposes of paragraph (1)(a) whether P’s income exceeds the applicable amount, any amount to which P may become entitled by way of a transitional addition under Part 2 of the 2010 Regulations shall be disregarded.

(1C) But where—

    - (a) P’s existing award would qualify for conversion under Part 2 of the 2010 Regulations but for the fact that the condition set out in paragraph (1)(a) is not satisfied in P’s case; and

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(b) P would otherwise be entitled to an amount of transitional addition under Part 2 of the 2010 Regulations as a result of carrying out Step 2, the condition set out in paragraph (1)(a) shall be treated as having been satisfied and the amount of an employment and support allowance which applies to P as a result of Step 1 shall be nil.”.

## PART 2

### MODIFICATION OF THE 2008 REGULATIONS

- 34.** Any reference to a claimant is to be read as if it were a reference to the notified person.
- 35.** Part 2 (which makes provision about the assessment phase) does not apply.
- 36.** Part 3 (which makes provision about contribution conditions which do not apply by virtue of modifications contained in these Regulations) does not apply.
- 37.** Regulation 30 (which provides for payment of the allowance pending determination of limited capability for work) does not apply.
- 38.** Regulation 75 (payments treated as not being payments to which section 3 of the 2007 Act applies) is to be read as if—
- (a) the existing provisions were renumbered as paragraph (1);
  - (b) at the end of that paragraph there were added—
    - “(g) any pension payment or PPF periodic payment which is made to a notified person and which falls within paragraph (2).”; and
  - (c) after that paragraph there were added—
    - “(2) This paragraph applies to any pension payment or PPF periodic payment made to the notified person where, immediately before the effective date of the person’s conversion decision, section 30DD(1) of the Contributions and Benefits Act(1) (incapacity benefit: reduction for pension payments and PPF periodic payments)—
      - (a) did not apply to the notified person by virtue of regulation 26 of the Social Security (Incapacity Benefit) Regulations 1994(2) (persons whose benefit is not to be reduced under section 30DD(1)); or
      - (b) was not treated as applying to the notified person by virtue of—
        - (i) regulation 19(1)(c) or (2)(c) of those Regulations (persons formerly entitled to severe disablement allowance); or
        - (ii) article 3 of the Welfare Reform and Pensions Act 1999 (Commencement No.9, and Transitional and Savings Provisions) Order 2000(3) (transitional provision in relation to incapacity benefit).”.
- 39.** Regulation 144 (requirement to serve a period of waiting days at the beginning of a period of limited capability for work) does not apply.

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(1) Section 30DD was inserted by section 63 of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by S.I. 2006/343.  
(2) S.I. 1994/2946.  
(3) S.I. 2000/2958.

## PART 3

### MODIFICATION OF OTHER SECONDARY LEGISLATION

#### *Social Security (Claims and Payments) Regulations 1987*

**40.** Regulation 32 of the Social Security (Claims and Payments) Regulations 1987(4) (information to be given and changes to be notified) is to be read as if it were modified so as to enable the Secretary of State to require from any person entitled to an existing award—

- (a) under paragraph (1), information or evidence for determining whether a decision on an existing award should be converted into an award of an employment and support allowance; and
- (b) under paragraph (1A), information or evidence in connection with payment of benefit in the event that an existing award is converted into an award of an employment and support allowance.

## SCHEDULE 2

Regulation 16(1)

### Modification of enactments: after the conversion phase

#### PART 1

##### MODIFICATION OF PART 1 OF THE 2007 ACT

**41.** Any reference to a claimant is to be read as if it were a reference to a person in relation to whom a conversion decision has been made under these Regulations.

**42.** Section 1 (employment and support allowance) is to be read as if—

- (a) for subsection (2), there were substituted—

“(2) Subject to the provisions of this Part, a person is entitled to an employment and support allowance if the person satisfies the basic conditions and—

- (a) in accordance with Part 2 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010, the effect of the conversion decision that was made in relation to the person was to convert the person’s existing award or awards into a single award of an employment and support allowance; and
- (b) that conversion decision has come into effect.”; and

- (b) for subsection (7), there were substituted—

“(7) In this Part—

“contributory allowance” means an employment and support allowance to which a person is entitled by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 which was based on an award of incapacity benefit or severe disablement allowance to which the person was entitled; and

“income-related allowance” means an employment and support allowance to which a person is entitled by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2)

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(4) S.I. 1987/1968. Regulation 32(1) and (1A) were inserted by S.I. 2003/1050.

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Regulations 2010 which was based on an award of income support to which the person was entitled.”.

- 43.** Section 2 (amount of contributory allowance) is to be read as if—
- (a) in subsection (1)(a), after the words “such amount” there were inserted “, or the aggregate of such amounts,”; and
  - (b) except for the purposes of applying regulation 147A of the 2008 Regulations (claimants appealing a decision), in subsections (2)(a) and (3)(a), references to the assessment phase were to the conversion phase.

**44.** Section 4 (amount of income-related allowance), except for the purposes of applying regulation 147A of the 2008 Regulations as modified by paragraph 15 of this Schedule, is to be read as if, in subsections (4)(a) and (5)(a), references to the assessment phase were to the conversion phase.

## PART 2

### MODIFICATION OF OTHER PRIMARY LEGISLATION

#### *Social Security Act 1998*

**45.** Schedule 3 to the Social Security Act 1998(5) (decisions against which an appeal lies) is to be read as if, after paragraph 8D, there were inserted—

“Conversion of certain existing awards into awards of an employment and support allowance

**8E.** A conversion decision within the meaning of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”.

#### *Social Security Contributions and Benefits Act 1992*

**46.** Section 44B of the Social Security Contributions and Benefits Act 1992(6) (deemed earnings factors: 2010-11 onwards) is to be read as if, after subsection (5), there were inserted—

“(5A) In determining whether Condition C is satisfied in relation to any pensioner, the following entitlements of the pensioner to an earnings factor credit may be aggregated if the weeks to which they relate comprise a continuous period—

- (a) any entitlement arising by virtue of—
  - (i) section 44C(3)(c) below (eligibility for earnings factor enhancement in respect of a week in which severe disablement allowance was payable), or
  - (ii) section 44C(3)(d) below (eligibility for earnings factor enhancement in respect of a week in which long-term incapacity benefit was, or would have been, payable); and
- (b) where an award of severe disablement allowance or long-term incapacity benefit was converted into an award of an employment and support allowance by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010, any entitlement arising by virtue of regulation 5A(2)(ba) of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment)

(5) 1998 c. 14. Paragraphs 8A to 8D of Schedule 3 were inserted by paragraph 12 of Schedule 1 to the State Pension Credit Act 2002 (c. 16).

(6) 1992 c. 4. Section 44B was inserted by section 9(1) of the Pensions Act 2007 (c. 22) and amended by paragraph 5 of Schedule 1 to the National Insurance Act 2008 (c. 16).

Regulations 2001(7) (earnings factor credits eligibility for pensioners to whom employment and support allowance was payable).”.

### PART 3

#### MODIFICATION OF THE 2008 REGULATIONS

**47.** Any reference to a claimant is to be read as if it were a reference to a person in relation to whom a conversion decision has been made under these Regulations.

**48.** Part 2 (which makes provision about the assessment phase) does not apply, except for the purposes of applying regulation 147A of the 2008 Regulations.

**49.** Part 3 (which makes provision about contribution conditions which do not apply by virtue of modifications contained in these Regulations) does not apply.

**50.** In its application to a person who has made and is pursuing an appeal against a conversion decision which embodies a determination that the person does not have limited capability for work, regulation 30 (which provides for payment of the allowance pending determination of limited capability for work) is to be read as if, after paragraph (3), before “decision” there were inserted “conversion”.

**51.** Regulation 45 (exempt work) is to be read as if, for the definition of “specified work” in paragraph (10), there were substituted—

““specified work” means—

- (a) work done in accordance with paragraph (4);
- (b) work done in accordance with regulation 17(4)(a) of the Social Security (Incapacity for Work) (General) Regulations 1995(8); or
- (c) work done in accordance with regulation 17(1A) of those Regulations, as then in force.”.

**52.** Regulation 67 (prescribed amounts) is to be read as if—

(a) in paragraph (1), after sub-paragraph (c) there were added—

“(d) the amount of any transitional addition to which the person is entitled under regulation 11 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”;

(b) in paragraph (2), for the words from “is the amount” to the end, there were substituted “are such of the following amounts as may apply in the person’s case—

- “(a) the amount determined in accordance with paragraph 1(1) of Schedule 4; 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) (Existing Awards) Regulations 2010.”.

**53.** Regulation 68 (polygamous marriages) is to be read as if, in paragraph (1), after sub-paragraph (d) there were added—

“(e) the amount of any transitional addition to which the person is entitled under regulation 11 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”.

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(7) [S.I. 2001/1323](#). Regulation 5A was inserted by [S.I. 2009/2206](#). The reference to regulation 5A(2)(ba) is to the modification made by paragraph 66 of Schedule 2 to these Regulations.

(8) [S.I. 1995/311](#). Regulation 17(1A) was in force from 8th April 2002 to 9th April 2006. Regulation 17 was substituted by [S.I. 2006/757](#) with effect from 10th April 2006.

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**54.** Regulation 75 (payments treated as not being payments to which section 3 of the 2007 Act applies) is to be read subject to the same modifications as are specified in paragraph 38 of Schedule 1 to these Regulations.

**55.** In its application to a person who has made and is pursuing an appeal against a conversion decision which embodies a determination that the person does not have limited capability for work, Regulation 147A(9) (claimants appealing a decision) is to be read as if there were substituted—

**“Claimants appealing a decision**

**147A.—(1)** This regulation applies where a person has made and is pursuing an appeal against a conversion decision which embodies a determination that the person does not have limited capability for work.

(2) Subject to paragraph (3), where this regulation applies, a determination of limited capability for work by the Secretary of State under regulation 19 shall not be made until the appeal is determined by the First-tier Tribunal.

(3) Paragraph (2) does not apply where either—

- (a) the claimant suffers from some specific disease or bodily or mental disablement from which the claimant was not suffering when entitlement began; or
- (b) a disease or bodily or mental disablement from which the claimant was suffering at that date has significantly worsened.

(4) Where this regulation applies and the Secretary of State makes a determination—

- (a) in a case to which paragraph (3) applies (including where the determination is not the first such determination) that the claimant does not have, or by virtue of regulation 22 or 23 is to be treated as not having, limited capability for work; or
- (b) subsequent to a determination that the claimant is to be treated as having limited capability for work by virtue of a provision of these Regulations other than regulation 30, that the claimant is no longer to be so treated,

this regulation and regulation 30 apply as if that determination had not been made.

(5) Where this regulation applies and—

- (a) the claimant is entitled to an employment and support allowance by virtue of being treated as having limited capability for work in accordance with regulation 30;
- (b) neither of the circumstances in paragraph (3) applies or, subsequent to the application of either of those circumstances, the claimant has been determined not to have limited capability for work; and
- (c) the claimant’s appeal is dismissed, withdrawn or struck out,

the claimant is to be treated as not having limited capability for work from the first day of the benefit week following the date on which the Secretary of State was notified by the First-tier Tribunal that the appeal is dismissed, withdrawn or struck out.

(6) Where a claimant’s appeal is successful, any entitlement to which this regulation applies shall terminate on the first day of the benefit week following the date on which the Secretary of State was notified by the First-tier Tribunal of that decision.”.

**56.** Schedule 5 (prescribed amounts in special case) is to be read as if any reference to the amount—

- (a) applicable to a person under regulation 67(1)(a); or
- (b) to which a person is entitled under regulation 67(1)(a),

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(9) Regulation 147A was inserted by [S.I. 2010/840](#), regulation 9(15).

included the amount of any transitional addition to which the person is entitled under regulation 67(1) (d) (see modification made by paragraph 52(a) of this Schedule).

#### PART 4

#### MODIFICATION OF OTHER SECONDARY LEGISLATION

##### *Social Security (Claims and Payments) Regulations 1987*

**57.** The Social Security (Claims and Payments) Regulations 1987(10) are to be read subject to the modifications set out in paragraphs 58 to 61 of this Schedule.

**58.** Regulation 3 (claims not required for entitlement to benefits in certain cases) is to be read as if—

- (a) after the words “was made” in paragraph (j)(ii)(11), there were inserted—
  - “; or
  - (iii) the beneficiary has made and is pursuing an appeal against a conversion decision made by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 which embodies a determination that the beneficiary does not have limited capability for work; or
  - (iv) the beneficiary was entitled to an employment and support allowance by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and has made and is pursuing an appeal against a later decision which embodies a determination that the beneficiary does not have limited capability for work”; and
- (b) after paragraph (j), there were added—
  - “(k) in the case of an employment and support allowance where the beneficiary is entitled to an existing award which is subject to conversion under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”.

**59.** In regulation 26C(12) (employment and support allowance) any reference to an employment and support allowance includes any transitional addition to which the beneficiary is entitled under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.

**60.** Regulation 32(1B) (information to be given and changes to be notified) is to be read as if—

- (a) the word “or” at the end of sub-paragraph (a) were omitted; and
- (b) after that sub-paragraph, there were inserted—
  - “(ab) the amount of any transitional addition to which the beneficiary is entitled under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; or”.

**61.** Schedule 9 (deductions from benefit and direct payments to third parties) is to be read as if—

- (a) in paragraph 1 (interpretation)—

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(10) S.I. 1987/1968. Regulation 3(j) was inserted by S.I. 2008/1554. Regulation 32(1B) was inserted by S.I. 2003/1050 and amended by S.I. 2003/3209. Paragraphs 1(3) and 8(4)(a)(iv) of Schedule 9 were inserted by S.I. 2008/1554.

(11) Paragraph (j) was substituted by regulation 2 of S.I. 2010/840.

(12) Regulation 26C was inserted by S.I. 2008/1554, regulation 21.

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(i) in sub-paragraph (3), after the words ““employment and support allowance” means”, there were inserted “(subject to sub-paragraph (4))”, and

(ii) after sub-paragraph (3), there were added—

“(4) In the application of sub-paragraph (3) to a beneficiary whose award of an employment and support allowance is by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”), any reference to an employment and support allowance includes any transitional addition to which the beneficiary is entitled under those Regulations.

(5) Where a specified benefit awarded to a beneficiary is subject to conversion under the 2010 Regulations and—

(a) immediately before the effective date of the conversion decision made in relation to the beneficiary, any deduction is being made in accordance with this Schedule from sums payable to the beneficiary by way of the specified benefit; and

(b) with effect from that date, the award of specified benefit is converted into an award of an employment and support allowance under the 2010 Regulations,

any deduction falling within paragraph (a) shall have effect as a deduction from the employment and support allowance to which the beneficiary is entitled.”.

(b) in paragraph 8—

(i) in sub-paragraph (4), for paragraph (a)(iv), there were substituted—

“(iv) in the case of an employment and support allowance, the applicable amount for the family as is awarded under the provisions specified in sub-paragraph (5); or”, and

(ii) after sub-paragraph (4) there were added—

“(5) The specified provisions are—

(a) where the person is entitled to an employment and support allowance by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”)—

(i) paragraph (1)(a), (b) and (d) of regulation 67 (prescribed amounts);  
or

(ii) paragraph (1)(a), (b), (c) and (e) of regulation 68 (polygamous marriages),

of the Employment and Support Allowance Regulations (as modified by paragraphs 52 and 53 of Schedule 2 to the 2010 Regulations); and

(b) in any other case, paragraph (1)(a) and (b) of regulation 67 or paragraph (1) (a) to (c) of regulation 68 of the Employment and Support Allowance Regulations.”.

**62.** Schedule 9B (deductions from benefit in respect of child support maintenance and payment to persons with care)(**13**) is to be read as if—

(a) in paragraph (1) (interpretation), the existing provision becomes sub-paragraph (1); and

(b) there were added—

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(13) Schedule 9B was inserted by [S.I. 2001/18](#), regulation 2. It has been amended but not in a way material to these Regulations.



“(2) In the application of this Schedule to a beneficiary whose award of an employment and support allowance is by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”), any reference to an employment and support allowance includes any transitional addition to which the beneficiary is entitled under those Regulations.

(3) Where a specified benefit awarded to a beneficiary is subject to conversion under the 2010 Regulations and—

(a) immediately before the effective date of the conversion decision made in relation to the beneficiary, any deduction is being made in accordance with this Schedule from sums payable to the beneficiary by way of the specified benefit; and

(b) with effect from that date, the award of specified benefit is converted into an award of an employment and support allowance under the 2010 Regulations,

any deduction falling within paragraph (a) shall have effect as a deduction from the employment and support allowance to which the beneficiary is entitled.”.

#### *Community Charges (Deductions from Income Support) (No. 2) Regulations 1990*

**63.** Regulation 1 of the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990(**14**) (citation, commencement and interpretation) is to be read as if, after paragraph (2), there were inserted—

“(2A) In the application of these Regulations to a debtor whose entitlement to an employment and support allowance is by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”), any reference to an employment and support allowance includes any transitional addition to which the debtor is entitled under those Regulations.

(2B) Where a debtor’s award of income support is subject to conversion under the 2010 Regulations and—

(a) immediately before the effective date of the conversion decision made in relation to the debtor, any deduction is being made under these Regulations from sums payable to the debtor by way of income support; and

(b) with effect from that date, the award of income support is converted into an award of an employment and support allowance under the 2010 Regulations,

any deduction falling within sub-paragraph (a) shall have effect as a deduction from the employment and support allowance to which the debtor is entitled.”.

#### *Fines (Deductions from Income Support) Regulations 1992*

**64.** Regulation 1 of the Fines (Deductions from Income Support) Regulations 1992(**15**) (citation, commencement and interpretation) is to be read as if, after paragraph (2), there were inserted—

“(2A) In the application of these Regulations to an offender whose entitlement to an employment and support allowance is by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards)

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(14) *S.I. 1990/545*. These Regulations lapsed on the repeal of the enabling authority, as from 1st April 1993, except in relation to any community charge in respect of a day falling before that date or in relation to any financial year beginning before that date.

(15) *S.I. 1992/2182*. *S.I. 2008/1554* added an employment and support allowance to the benefits from which deductions may be made, inserted definitions of “contributory employment and support allowance”, “income related employment and support allowance” and made other relevant amendments.

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(No. 2) Regulations 2010 (“the 2010 Regulations”), any reference to an employment and support allowance includes any transitional addition to which the offender is entitled under those Regulations.

(2B) Where an offender’s award of income support is subject to conversion under the 2010 Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the offender, any deduction is being made under these Regulations from sums payable to the offender by way of income support; and
- (b) with effect from that date, the award of income support is converted into an award of an employment and support allowance under the 2010 Regulations,

any deduction falling within sub-paragraph (a) shall have effect as a deduction from the employment and support allowance to which the offender is entitled.”.

*Council Tax (Deductions from Income Support) Regulations 1993*

**65.** Regulation 1 of the Council Tax (Deductions from Income Support) Regulations 1993(**16**) (citation, commencement and interpretation) is to be read as if, after paragraph (2), there were inserted—

“(2A) In the application of these Regulations to a debtor whose entitlement to an employment and support allowance is by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”), any reference to an employment and support allowance includes any transitional addition to which the debtor is entitled under those Regulations.

(2B) Where a debtor’s award of income support is subject to conversion under the 2010 Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the debtor, any deduction is being made under these Regulations from sums payable to the debtor by way of income support; and
- (b) on that date, the award of income support is converted into an award of an employment and support allowance under the 2010 Regulations,

any deduction falling within sub-paragraph (a) shall have effect as a deduction from the employment and support allowance to which the debtor is entitled.”.

*Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001*

**66.** Regulation 5A of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001(**17**) (earnings factor credits eligibility for pensioners to whom employment and support allowance was payable) is to be read as if—

- (a) the word “or” at the end of paragraph (2)(b) were omitted; and
- (b) after that paragraph (2)(b), there were inserted—

“(ba) that allowance was an employment and support allowance to which the pensioner was entitled by virtue of the Employment and Support Allowance

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(16) [S.I. 1993/494](#), [S.I. 2008/1554](#) added an employment and support allowance to the benefits from which deductions may be made, inserted definitions of “contributory employment and support allowance”, “income related employment and support allowance” and made other relevant amendments.

(17) [S.I. 2001/1323](#). Regulation 5A was inserted by [S.I. 2009/2206](#).

(Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and either—

- (i) long-term incapacity benefit or severe disablement allowance was payable to the pensioner immediately before its conversion into an employment and support allowance in accordance with those Regulations; or
- (ii) the condition in sub-paragraph (b) was satisfied; or ”.

### SCHEDULE 3

Regulation 16(2)(e)(iii)

#### List of regulations that apply after the conversion phase

The regulations referred to in regulation 16(2)(e)(iii) are—

- The Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974**(18)**
- The Social Security (Benefit) (Members of the Forces) Regulations 1975**(19)**
- The Social Security (Airmen’s Benefits) Regulations 1975**(20)**
- The Social Security (Mariners’ Benefits) Regulations 1975**(21)**
- The Social Security (Credits) Regulations 1975**(22)**
- The Social Security (Medical Evidence) Regulations 1976**(23)**
- The Social Security (Overlapping Benefits) Regulations 1979**(24)**
- The Statutory Sick Pay (General) Regulations 1982**(25)**
- The Statutory Maternity Pay (General) Regulations 1986**(26)**
- The Income Support (General) Regulations 1987**(27)**
- The Social Security (Claims and Payments) Regulations 1987**(28)**
- The Social Fund (Recovery by Deductions from Benefits) Regulations 1988**(29)**
- The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988**(30)**
- The Social Fund Cold Weather Payments (General) Regulations 1988**(31)**
- The Community Charges (Deductions from Income Support) (No.2) Regulations 1990**(32)**
- The Child Support (Maintenance Assessment Procedure) Regulations 1992**(33)**
- The Child Support (Maintenance Assessments and Special Cases) Regulations 1992**(34)**

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**(18)** S.I. 1974/2010.  
**(19)** S.I. 1975/493.  
**(20)** S.I. 1975/494.  
**(21)** S.I. 1975/529.  
**(22)** S.I. 1975/556.  
**(23)** S.I. 1976/615.  
**(24)** S.I. 1979/597.  
**(25)** S.I. 1982/894.  
**(26)** S.I. 1986/1960.  
**(27)** S.I. 1987/1967.  
**(28)** S.I. 1987/1968.  
**(29)** S.I. 1988/35.  
**(30)** S.I. 1988/664.  
**(31)** S.I. 1988/1724.  
**(32)** S.I. 1990/545.  
**(33)** S.I. 1992/1813.  
**(34)** S.I. 1992/1815.

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- The Fines (Deductions from Income Support) Regulations 1992**(35)**
- The Council Tax (Deductions from Income Support) Regulations 1993**(36)**
- The Jobseeker's Allowance Regulations 1996**(37)**
- The Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996**(38)**
- The Child Support Departure Direction and Consequential Amendments Regulations 1996**(39)**
- The Social Security and Child Support (Decisions and Appeals) Regulations 1999**(40)**
- The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000**(41)**
- The Social Fund Winter Fuel Payment Regulations 2000**(42)**
- The Child Support (Maintenance Calculations and Special Cases) Regulations 2000**(43)**
- The Child Support (Variations) Regulations 2000**(44)**
- The Child Support (Maintenance Calculation Procedure) Regulations 2000**(45)**
- The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001**(46)**
- The Children (Leaving Care) Social Security Benefits Regulations 2001**(47)**
- The Social Security (Loss of Benefit) Regulations 2001**(48)**
- The State Pension Credit Regulations 2002**(49)**
- The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003**(50)**
- The Age-Related Payments Regulations 2005**(51)**
- The Social Fund Maternity and Funeral Expenses (General) Regulations 2005**(52)**

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(35) S.I. 1992/2182.  
(36) S.I. 1993/494.  
(37) S.I. 1996/207.  
(38) S.I. 1996/940.  
(39) S.I. 1996/2907.  
(40) S.I. 1999/991.  
(41) S.I. 2000/636.  
(42) S.I. 2000/729.  
(43) S.I. 2001/155.  
(44) S.I. 2001/156.  
(45) S.I. 2001/157.  
(46) S.I. 2001/769.  
(47) S.I. 2001/3074.  
(48) S.I. 2001/4022.  
(49) S.I. 2002/1792.  
(50) S.I. 2003/1886.  
(51) S.I. 2005/1983.  
(52) S.I. 2005/3061.

## SCHEDULE 4

Regulation 26

### Consequential amendments

#### *The Social Security (Claims and Payments) Regulations 1987*

**67.** In paragraph 8 of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987(**53**) (deductions from benefit and direct payments to third parties), in sub-paragraph (4), for paragraph (a)(iv) substitute—

“(iv) in the case of an employment and support allowance, the applicable amount for the family as is awarded under paragraph (1)(a) and (b) of regulation 67 (prescribed amounts) or paragraph (1)(a) to (c) of regulation 68 (polygamous marriages) of the Employment and Support Allowance Regulations; or”.

#### *The Employment and Support Allowance (Transitional Provisions) Regulations 2005*

**68.** In regulation 2(3) of the Employment and Support Allowance (Transitional Provisions) Regulations 2005(**54**) (claim for existing award), omit the words “severe disablement allowance,”.

## SCHEDULE 5

Regulation 27

### Amendments to legislation relating to Housing Benefit and Council Tax Benefit

#### PART 1

#### AMENDMENT OF THE HOUSING BENEFIT REGULATIONS 2006

**69.**—(1) The Housing Benefit Regulations 2006(**55**) are amended as follows.

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

(a) after the definition of “contributory employment and support allowance” insert—

““converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations;” and

(b) after the definition of “Employment and Support Allowance Regulations” insert—

““Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010;”.

(3) In regulation 22 (applicable amounts) after paragraph (e) add—

“(f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 3 (transitional addition).”.

(4) In regulation 23 (polygamous marriages) after paragraph (f) add—

“(g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 3 (transitional addition).”.

(53) Paragraph 8(4)(a)(iv) of Schedule 9 was inserted by [S.I. 2008/1554](#).

(54) [S.I. 2008/795](#). Regulation 2(2) was amended by [S.I. 2008/2783](#).

(55) [S.I. 2006/213](#). Regulations 2, 21 and 22 were amended, and Parts 5 and 6 of Schedule 3 inserted, by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Paragraph 1A of Schedule 3 was inserted by [S.I. 2009/583](#).

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(5) In Schedule 3 (applicable amounts)—

(a) for paragraph 1A substitute—

“**1A.** For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if—

(a) each of the conditions in paragraph 21 is satisfied in relation to the claimant personally; or

(b) the claimant personally is entitled to a converted employment and support allowance.”;

(b) after paragraph 21 insert—

“**21A.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 or 24 if the claimant or the claimant’s partner is entitled to a converted employment and support allowance.”; and

(c) after Part 6 (amount of components) add—

“PART 7

Transitional Addition

**27.—(1)** The claimant is entitled to the transitional addition calculated in accordance with paragraph 30 where the claimant or the claimant’s partner (“the relevant person”)—

(a) is entitled to a converted employment and support allowance; or

(b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and—

(i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations; and

(ii) is not in receipt of an income-related employment and support allowance,

unless the amount of the transitional addition calculated in accordance with paragraph 30 would be nil.

(2) The claimant’s entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

(a) the reduction of the transitional addition to nil in accordance with paragraph 31;

(b) the termination of the claimant’s award of housing benefit;

(c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;

(d) the claimant or the claimant’s partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker’s allowance or income support;

(e) 5th April 2020.

**28.—(1)** This paragraph applies where—

(a) the claimant’s entitlement to a transitional addition ends, by virtue of the termination of the claimant’s award of housing benefit, under—

(i) paragraph 27(2)(b);

(ii) sub-paragraph (3)(b) of this paragraph; or

(iii) paragraph 29(3)(b);

- (b) within 104 weeks of that termination but before 5th April 2020 the claimant again becomes entitled to housing benefit;
- (c) in the benefit week in which the claimant again becomes entitled to housing benefit the relevant person is entitled to an employment and support allowance which is not income-related;
- (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where claimant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (e) at the date on which the claimant again becomes entitled to housing benefit, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day on which the claimant again becomes entitled to housing benefit, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of housing benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

**29.—**(1) This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
  - (i) paragraph 27(2)(c);
  - (ii) paragraph 28(3)(c); or
  - (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) either—
  - (i) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulation applies to the relevant person; or
  - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and

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- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for housing benefit purposes, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of housing benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

## PART 8

### Amount of transitional addition

**30.**—(1) Subject to paragraph 31, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the relevant person—

- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.

(3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations—

- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.

(4) In this paragraph and paragraph 31, "basic amount" means the aggregate of such amounts as may apply in the claimant's case in accordance with regulation 22(a) to (e) or regulation 23(a) to (f).



**31.**—(1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the claimant’s basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which Amount C exceeds Amount D.

(2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.

(3) Amount C is the basic amount that applies as a result of the increase.

(4) Amount D is the basic amount that applied immediately before the increase.”.

## PART 2

### AMENDMENT OF THE COUNCIL TAX BENEFIT REGULATIONS 2006

**70.**—(1) The Council Tax Benefit Regulations 2006(**56**) are amended as follows.

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

(a) after the definition of “contributory employment and support allowance” insert—

““converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations;”;

(b) after the definition of “Employment and Support Allowance Regulations” insert—

““Employment and Support Allowance (Existing Awards) Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010;”.

(3) In regulation 12 (applicable amounts) after paragraph (e) add—

“(f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 1 (transitional addition).”.

(4) In regulation 13 (polygamous marriages) after paragraph (f) add—

“(g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of Schedule 1 (transitional addition).”.

(5) In Schedule 1 (applicable amounts)—

(a) for paragraph 1A substitute—

“**1A.** For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if—

(a) paragraph 21 is satisfied in relation to the claimant; or

(b) the claimant is entitled to a converted employment and support allowance.”;

(b) after paragraph 21 insert—

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(56) [S.I. 2006/215](#). The definitions of “contributory employment and support allowance” and “the Employment and Support Allowance Regulations” were inserted into regulation 2(1) by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Regulations 21 and 22 were amended, and Parts 5 and 6 of Schedule 3, inserted by [S.I. 2008/1082](#) (as amended by [S.I. 2008/2428](#)). Paragraph 1A of Schedule 3 was inserted by [S.I. 2009/583](#).

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“**21A.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 and 24 if the claimant or his partner is entitled to a converted employment and support allowance.”; and

(c) after Part 6 (amount of components) add—

“PART 7

Transitional Addition

**27.—**(1) The claimant is entitled to the transitional addition calculated in accordance with paragraph 30 where the claimant or the claimant’s partner (“the relevant person”)—

- (a) is entitled to a converted employment and support allowance; or
- (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and—
  - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations; and
  - (ii) is not in receipt of an income-related employment and support allowance,

unless the amount of the transitional addition calculated in accordance with paragraph 30 would be nil.

(2) The claimant’s entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant’s award of council tax benefit;
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
- (d) the claimant or the claimant’s partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker’s allowance or income support;
- (e) 5th April 2020.

**28.—**(1) This paragraph applies where—

- (a) the claimant’s entitlement to a transitional addition, ends by virtue of the termination of the claimant’s award of council tax benefit, under—
  - (i) paragraph 27(2)(b);
  - (ii) sub-paragraph (3)(b) of this paragraph; or
  - (iii) paragraph 29(3)(b);
- (b) within 104 weeks of that termination but before 5th April 2020 the claimant again becomes entitled to council tax benefit;
- (c) in the benefit week in which the claimant again becomes entitled to council tax benefit the relevant person is entitled to an employment and support allowance which is not income-related;
- (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where claimant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and

- (e) at the date on which the claimant again becomes entitled to council tax benefit, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day on which the claimant again becomes entitled to council tax benefit, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of council tax benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

**29.—**(1) This paragraph applies where—

- (a) the claimant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
  - (i) paragraph 27(2)(c);
  - (ii) paragraph 28(3)(c); or
  - (iii) sub-paragraph (3)(c) of this paragraph;
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) either—
  - (i) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulation applies to the relevant person; or
  - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the claimant nor the claimant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the claimant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for council tax benefit purposes, to a transitional addition of the amount of the transitional addition that would have applied had the claimant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances

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would have had by virtue of paragraph 31), unless the amount of the transitional addition would be nil.

(3) The claimant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the reduction of the transitional addition to nil in accordance with paragraph 31;
- (b) the termination of the claimant's award of council tax benefit;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the claimant or the claimant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

## PART 8

### Amount of transitional addition

**30.**—(1) Subject to paragraph 31, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the relevant person—

- (a) Amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.

(3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations—

- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.

(4) In this paragraph and paragraph 31, "basic amount" means the aggregate of such amounts as may apply in the claimant's case in accordance with regulation 12(a) to (e) or regulation 13(a) to (f).

**31.**—(1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the claimant's basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which Amount C exceeds Amount D.

(2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.

- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase."

## PART 3

### AMENDMENT OF THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (DECISIONS AND APPEALS) REGULATIONS 2001

**71.**—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001<sup>(57)</sup> are amended as follows.

(2) In regulation 7(2) (decisions superseding earlier decisions)—

(a) in sub-paragraph (i) after “sub-paragraph (o)” insert “, (p) or (q)”;

(b) after sub-paragraph (o) add—

“(p) where—

(i) the claimant has been awarded entitlement to housing benefit or council tax benefit;

(ii) the claimant or the claimant’s partner has had an award of benefit converted to an employment and support allowance in accordance with regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; and

(iii) subsequent to the first day of the period to which that entitlement to housing benefit or council tax benefit relates, the Secretary of State makes a decision to supersede the award of employment and support allowance to award a different component;

(q) where the claimant has been awarded entitlement to housing benefit or council tax benefit and subsequent to the first day of the period to which that entitlement relates—

(i) a conversion decision of the kind set out in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect in respect of the claimant or the claimant’s partner; or

(ii) the claimant is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”.

(3) In regulation 8 (date from which a decision superseding an earlier decision takes effect)—

(a) in paragraph (14D)—

(i) after “regulation 7(2)(o)” insert “or (p)”; and

(ii) in sub-paragraph (a) after “regulation 7(2)(o)(iii)” insert “or (p)(iii)”; and

(b) after paragraph (14D) insert—

“(14E) Where a decision is superseded in accordance with regulation 7(2)(q) the decision shall take effect—

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<sup>(57)</sup> S.I. 2001/1002. Regulation 7(2)(i) was inserted by S.I. 2003/2275 and amended by S.I. 2008/1082 (as amended by S.I. 2008/2428). Regulations 7(2)(o) and 8(14D) were inserted by S.I. 2008/1082 (as amended by S.I. 2008/2428).

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- (a) where the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect on or after 1st April in any year but before 16th April of that year—
  - (i) from 1st April for a council tax benefit award;
  - (ii) from 1st April for a housing benefit award in which the claimant's weekly amount of eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c) of the Housing Benefit Regulations or, as the case may be, regulation 61(2)(b) or (c) of the Housing Benefit (State Pension Credit) Regulations;
  - (iii) from the first Monday in April for a housing benefit award to which subparagraph (a)(ii) does not apply;
- (b) in any other case, from the day the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect.”.