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STATUTORY INSTRUMENTS

2010 No. 2430

SOCIAL SECURITY

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

Made - - - - *4th October 2010*
Laid before Parliament *11th October 2010*
Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by paragraphs 4(4), 20(1) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(1), and sections 24(1), 25(2), (3) and (5), and 28(2) of, and paragraphs 1, 4 and 9 of Schedule 2 and paragraphs 1(1), 7 and 8(1) of Schedule 4 to, the Welfare Reform Act 2007(2).

The Social Security Advisory Committee has agreed that the proposals in these Regulations should not be referred to it(3).

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, the Secretary of State has consulted with organisations appearing to the Secretary of State to be representative of the authorities concerned(4).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) (Amendment) Regulations 2010.

(2) Subject to paragraph (3), these Regulations come into force on 1st November 2010.

(3) Paragraph (2) of regulation 19 comes into force on 31st January 2011.

(1) 2000 c. 19. Paragraph 20(1) was amended by S.I. 2008/2833, article 9 and Schedule 3, paragraph 190(15)(a). Paragraph 23(1) is an interpretation provision and is cited for the definition of “prescribed”.
(2) 2007 c. 5. Section 24(1) is cited because of the meaning it gives to “prescribed” and “regulations”.
(3) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c. 5).
(4) See section 176(1) of the Social Security Administration Act 1992.

(4) In these Regulations—

“the 2008 Regulations” means the Employment and Support Allowance Regulations 2008⁽⁵⁾; and

“the Migration Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010⁽⁶⁾.

Migration Regulations: amendment of regulation 1

2. In regulation 1(3) of the Migration Regulations (citation and commencement) for “paragraph 2” substitute “paragraphs 1A and 2”.

Migration Regulations: amendment of regulation 3

3. For regulation 3 of the Migration Regulations (persons to whom the Migration Regulations apply), substitute—

“3. In these Regulations, regulations 4 to 22 apply to any person who, on or after 1st October 2010, is entitled to an existing award.”.

Migration Regulations: amendment of regulation 7

4.—(1) Regulation 7 of the Migration Regulations (qualifying for conversion) is amended as follows.

(2) The existing provision becomes paragraph (1).

(3) For “For the purposes of regulation 5(2)(a)” substitute “Subject to paragraph (2), for the purposes of regulation 5(2)(a)”.

(4) After “notified person” insert “(“P”)”.

(5) After “employment and support allowance” insert “under these Regulations”.

(6) For “the person” substitute “P”.

(7) After paragraph (1), add—

“(2) Where P is entitled to an award of an employment and support allowance under the 2007 Act and it has been determined in respect of that entitlement that P—

(a) has limited capability for work, or

(b) is to be treated as having limited capability for work, other than by virtue of regulation 30 of the 2008 Regulations,

in relation to the conversion of P’s existing award, P is to be taken as having satisfied the condition set out in section 1(3)(a) of the 2007 Act (limited capability for work).”.

Migration Regulations: amendment of regulation 8

5.—(1) Regulation 8 of the Migration Regulations (amount of an employment and support allowance on conversion) is amended as follows.

(2) The existing provision becomes paragraph (1).

(3) In paragraph (1), Step 2, renumber paragraphs (c) and (d) as paragraphs (a) and (b) respectively.

(5) [S.I. 2008/794](#).
(6) [S.I. 2010/1907](#).

(4) After paragraph (1), add—

“(2) In a case to which regulation 7(2) applies (cases where a person is already entitled to an award of an employment and support allowance), a determination that the person has, or does not have, limited capability for work-related activity made in respect of the person’s current entitlement to an award of an employment and support allowance is to be treated as having been made for the purposes of Step 1.”

Migration Regulations: amendment of regulation 10

6.—(1) Regulation 10 of the Migration Regulations (transitional addition: incapacity benefit or severe disablement allowance) is amended as follows.

(2) In paragraph (5)—

(a) for sub-paragraph (a), substitute—

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

- (i) under section 30B(2), (6) or (7) (subject to any deduction made in accordance with section 46(3) of the Pension Schemes Act 1993(7)) of the Contributions and Benefits Act(8) (incapacity benefit: rate),
- (ii) under section 40(5) or 41(4) of that Act(9) (long-term incapacity benefit for widows and for widowers),
- (iii) under section 80, 81 or 86A of that Act(10) (incapacity benefit: beneficiary’s dependent children; restrictions on increase – child not living with beneficiary etc; and increases for adult dependants),
- (iv) by virtue of regulation 11(4) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995(11) (former sickness benefit), or
- (v) by virtue of regulations 17(1) (transitional awards of long-term incapacity benefit) or 17A (awards of incapacity benefit in cases where periods of interruption of employment and periods of incapacity for work link) of those Regulations(12); or”; and

(b) in sub-paragraph (b), for “sections 68(7) and 69(1)” substitute “sections 68(7), 69(1) and 90(13)”.

(3) After paragraph (5), add—

“(6) Subject to paragraph (7), in determining the weekly rate of incapacity benefit or severe disablement allowance for the purposes of paragraph (5) the following amounts shall be disregarded—

(a) any relevant deduction within the meaning of regulation 2(1) (interpretation); and

(7) 1993 c. 48. Section 46(3) was substituted by paragraph 56(4) of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18) and is to be repealed by Schedule 8 to the Welfare Reform Act 2007

(8) 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 and is to be repealed by paragraph 9(5) of Schedule 3 to the Welfare Reform Act 2007.

(9) 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.

(10) Sections 80 and 81 were repealed by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c. 21) but those sections were continued in force in certain cases by virtue of S.I. 2003/938, article 3. Section 86A was inserted by section 2(5) of the Social Security (Incapacity for Work) Act 1994. This section is to be repealed by Schedule 8 to the Welfare Reform Act 2007.

(11) S.I. 1995/310.

(12) Regulation 17A was inserted by S.I. 1995/987, regulation 3(3).

(13) Section 90 was repealed but continued with savings by virtue of article 4 of S.I. 2000/2958. The remaining provisions of section 90 (in relation to carer’s allowance) were repealed on 6th April 2010 with savings by section 15 of the Welfare Reform Act 2009.

- (b) any other deduction relating to the existing award which is made by virtue of the Contributions and Benefits Act, the Administration Act or any other Act which is amended by Schedule 3 to the 2007 Act, the Social Security (Incapacity for Work) Act 1994 or by virtue of regulations made under those Acts.

(7) Where any of the enactments referred to in paragraph (6)(b) provide for an additional amount of incapacity benefit or severe disablement allowance to be payable in prescribed circumstances (such as an increase for an adult dependant) but that additional amount is reduced or not payable in relation to P (such as where the dependant has earnings in excess of the standard amount of an increase), in determining the weekly rate of incapacity benefit or severe disablement allowance, only the reduced additional amount (if any) is to be taken into account.”.

Migration Regulations: amendment of regulation 14

7.—(1) Regulation 14 of the Migration Regulations (conversion decision that existing award qualifies for conversion) is amended as follows.

(2) In paragraph (1), for “Paragraphs (2) and (3)” substitute “Subject to paragraph (2A), paragraphs (2) to (6)”.

(3) After paragraph (2) insert—

“(2A) Where P—

- (a) has an existing award of income support;
- (b) would, on the effective date of P’s conversion decision, remain entitled to income support (by virtue of another provision of the Income Support (General) Regulations 1987(**14**)) were P not a person to whom regulation 6(4)(a)(**15**) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B(**16**) to, those Regulations (persons incapable of work or disabled) applied; and
- (c) notifies the Secretary of State before the effective date of P’s conversion decision that P wishes to remain entitled to income support on that date,

paragraph (2B) applies instead of paragraphs (2) and (4).

(2B) Where paragraph (2A) applies, any entitlement of P to one or both of—

- (a) an existing award of incapacity benefit or severe disablement allowance; or
- (b) a disability premium by virtue of paragraph 12(1)(b) of Schedule 2 to the Income Support (General) Regulations 1987 (additional condition for the higher pensioner and disability premiums),

shall terminate immediately before the effective date of P’s conversion decision.”.

(4) For paragraphs (3) and (4) substitute—

“(3) In a case to which regulation 7(2) applies (cases where a person is already entitled to an award of an employment and support allowance), any entitlement of P to an award of an employment and support allowance by virtue of the 2007 Act shall terminate immediately before the effective date of P’s conversion decision.

(4) Where, immediately before the effective date of the conversion decision, any relevant deduction was made from the existing award or awards, or from an award of an employment and support allowance which terminates in accordance with paragraph (3), an equivalent

(14) S.I. 1987/1967.

(15) Regulation 6(4)(a) was revoked by regulation 4(1)(a)(i) of S.I. 2009/3228, subject to savings in paragraphs (3), (4), (7) and (8) in that regulation.

(16) Regulation 13(2)(b) and (bb) of, and paragraphs 7(a) and (b), 10, 12 and 13 of Schedule 1B to, the Income Support (General) Regulations 1987 were revoked with savings by regulation 2 of S.I. 2009/3152, with effect from 30th December 2009.

deduction shall be made from the award of an employment and support allowance to which P is entitled by virtue of these Regulations.

(5) Where, immediately before the effective date of the conversion decision, P is entitled to be credited with any earnings under regulation 8B(2)(a) of the Social Security (Credits) Regulations 1975(17) (credits for incapacity for work), P shall not be entitled to be so credited under that regulation on or after that date.

(6) Where—

- (a) paragraph (2) applies,
- (b) P is a member of a joint-claim couple, and
- (c) immediately before the effective date of that conversion decision that couple was entitled to a disability premium by virtue of paragraph 20H(1)(b) or (d) of Schedule 1 to the Jobseeker's Allowance Regulations 1996(18) (additional conditions for higher pensioner and disability premium: severe disablement allowance or incapacity benefit),

paragraph 20H(1)(ee) of that Schedule (limited capability for work) shall be treated as satisfied in relation to that couple on the effective date of that conversion decision.

(7) In this regulation—

- (a) paragraphs (2) to (6) are subject to regulation 17 (changes of circumstances before the effective date); and
- (b) “joint-claim couple” has the same meaning as in section 1(4) of the Jobseekers Act 1995(19).”.

Migration Regulations: amendment of regulation 15

8.—(1) Regulation 15 of the Migration Regulations (conversion decision that existing award does not qualify for conversion) is amended as follows.

(2) In paragraph (1), for “Subject to paragraph (4), paragraphs (2) and (3) apply” substitute “Subject to paragraphs (2A) and (4), paragraphs (2), (3) and (6) apply”.

(3) After paragraph (2), insert—

“(2A) Where P—

- (a) has an existing award of income support, and
- (b) would, on the effective date of P's conversion decision, remain entitled to income support (by virtue of another provision of the Income Support (General) Regulations 1987) were P not a person to whom regulations 6(4)(a) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, those Regulations (persons incapable of work or disabled) applied,

P's existing award of income support shall only terminate under paragraph (2)(b) if P notifies the Secretary of State before the effective date of P's conversion decision that P does not wish to remain entitled to income support on that date.

(2B) Where paragraph (2A) applies, and P's existing award of income support does not terminate under paragraph (2)(b), any entitlement of P to a disability premium by virtue of paragraph 12(1)(b) of Schedule 2 to the Income Support (General) Regulations 1987

(17) S.I. 1975/556. Regulation 8B was inserted by S.I. 1996/2367 and amended by S.I. 2008/1554.

(18) S.I. 1996/507. Paragraph 20H of Schedule 1 was inserted by regulation 2(5) of, and paragraph 53 of Schedule 2 to, S.I. 2000/1978. It has been amended but not in a way material to these Regulations.

(19) 1995 c. 18.

(additional condition for the higher pensioner and disability premiums) shall terminate immediately before the effective date of P’s conversion decision.”.

(4) In paragraph (3), for “that date”, where it first appears, substitute “the effective date of P’s conversion decision”.

(5) For paragraph (6), substitute—

“(6) Where—

- (a) paragraph (2) applies; and
- (b) P is a member of a joint-claim couple,

any entitlement of that couple to a disability premium by virtue of paragraph 20H(1)(b) or (d) of Schedule 1 to the Jobseeker’s Allowance Regulations 1996 (additional conditions for higher pensioner and disability premium: severe disablement allowance or incapacity benefit) shall terminate immediately before the effective date of P’s conversion decision.

(7) In this regulation—

- (a) paragraphs (2), (2A), (3) and (6) are subject to regulation 17 (changes of circumstances before the effective date); and
- (b) “joint-claim couple” has the same meaning as in section 1(4) of the Jobseekers Act 1995.”.

Migration Regulations: amendment of regulation 17

9. Regulation 17 of the Migration Regulations (changes of circumstances before the effective date) is amended as follows—

(a) after “occurred before that date” insert “and which would have been relevant to the existing award or awards”;

(b) for paragraph (a), substitute—

“(a) must treat any award—

- (i) converted by virtue of regulation 14(2) (conversion decision that existing award qualifies for conversion), or
- (ii) terminated by virtue of regulation 14(2B)(a) (termination of an existing award of incapacity benefit or severe disablement allowance where entitlement to award of income support continues), regulation 14(3) (termination of award of an employment and support allowance where that entitlement already exists) or regulation 15(2) (termination of existing awards which do not qualify for conversion),

as if that award had not been converted or terminated;

(b) must treat any entitlement to be credited with earnings terminated by virtue of regulation 14(5) or 15(3) as if it had not been terminated;

(c) must treat any entitlement to a disability premium terminated by virtue of regulations 14(2B)(b), 15(2B) or 15(6) as if it had not been terminated;”;

(c) renumber paragraphs (b) to (e) as (d) to (g) respectively.

Migration Regulations: amendment of regulation 19

10.—(1) Regulation 19 of the Migration Regulations (reducing the transitional addition: increases for dependent children) is amended as follows.

(2) For paragraph (1)(a) substitute—

- “(a) on the day before the effective date of T’s conversion decision, was entitled in connection with an existing award of incapacity benefit or severe disablement allowance to an increase under—
- (i) in the case of incapacity benefit, section 80 of the Contributions and Benefits Act (beneficiary’s dependent children), or
 - (ii) in the case of severe disablement allowance, section 90 of that Act (beneficiaries under sections 68 and 70),
- as those sections have effect by virtue of article 3 of the Tax Credits (Commencement No. 3 and Transitional Provisions and Savings) Order 2003(20); and”.
- (3) For paragraph (3) substitute—
- “(3) The amount of the transitional addition shall be reduced (but not below nil) by a sum equal to the amount of the increase referred to in paragraph (1)(a) payable to T on the day before the effective date, in respect of the child or qualifying young person in relation to whom child benefit terminated.”.

Migration Regulations: amendment of regulation 20

11. In regulation 20 of the Migration Regulations (reducing the transitional addition: increases for adult dependants), for paragraph (3) substitute—

- “(3) The amount of the transitional addition shall be reduced (but not below nil) by a sum equal to the amount which, on the day before the effective date, was the amount of the increase referred to in paragraph (1)(a) payable to T.”.

Migration Regulations: amendment of regulation 21

12.—(1) Regulation 21 of the Migration Regulations (termination of transitional addition) is amended as follows.

- (2) In paragraph (1)(b)—
- (a) for “paragraphs (2) and (3)”, substitute “paragraphs (2), (3) and (4)”; and
 - (b) for “an employment and support allowance”, substitute “an employment and support allowance (entitlement to which arises from sections 1(2)(a) or 1(2)(b) of the 2007 Act), or to a contributory allowance or to an income-related allowance”.
- (3) In paragraph (2), for “the termination of the person’s entitlement to an employment and support allowance” substitute “a termination of the person’s entitlement to which that provision refers”.
- (4) For paragraphs (3) to (6), substitute—
- “(3) Any termination by virtue of paragraph (1)(b) of T’s entitlement to a transitional addition under regulation 10(2)(a) (transitional addition: incapacity benefit or severe disablement allowance) shall instead have effect as a suspension of that entitlement in Case 1.
- (4) Any termination by virtue of paragraph (1)(b) of T’s entitlement to a transitional addition under regulation 11(2)(a) (transitional addition: income support) shall instead have effect as a suspension of that entitlement in Case 1 or Case 2.
- (5) Case 1 is where—
- (a) on a subsequent claim made by T for an employment and support allowance, a period of limited capability for work is treated under regulation 145(1) or (2)

of the 2008 Regulations (linking rules) as a continuation of an earlier period of limited capability for work;

- (b) T's entitlement to an allowance which is referred to in paragraph (1)(b) ("T's old entitlement") was in respect of that earlier period; and
 - (c) in a case to which regulation 145(1) of the 2008 Regulations applies (12 week linking rule), it is determined, in respect of that subsequent claim, that T has, or is treated as having, limited capability for work, other than under regulation 30 of the 2008 Regulations.
- (6) Case 2 is where—
- (a) the reason for terminating T's entitlement to an employment and support allowance arising from section 1(2)(b) of the 2007 Act (financial position), or to an income-related allowance, as the case may be, was that the condition set out in paragraph 6(1)(f) of Schedule 1 to the 2007 Act (no entitlement to income-related allowance where other member of a couple engages in remunerative work) had ceased to be satisfied in T's case;
 - (b) the condition referred to in sub-paragraph (a) is subsequently satisfied;
 - (c) T again becomes entitled to an allowance which is referred to in sub-paragraph (a); and
 - (d) that entitlement commences before the end of the 12 week period which begins with the date of termination of T's old entitlement.

(7) In Cases 1 and 2, the amount of the transitional addition or additions, as the case may be, to which T becomes entitled from the commencement of T's subsequent entitlement to an allowance which is referred to in paragraph (1)(b) is to be determined by reference to the amount of the transitional addition or additions, as the case may be, to which T was entitled on the termination of T's old entitlement, subject to any subsequent adjustment of that amount that would have been made under this Part."

Migration Regulations: amendment of regulation 22

13. In regulation 22(a) of the Migration Regulations (disapplication of certain enactments following conversion decision), after "30A," insert "30C,".

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⁽²¹⁾,

paragraphs 12(1)(b), 12(1A) and 12(5) of Schedule 2 to the Income Support (General) Regulations 1987⁽²²⁾ continue to apply to that person as if paragraphs (2) and (3) of this regulation had no effect.”.

Migration Regulations: amendment of Schedules 1, 2, 4 and 5

15.—(1) Schedules 1, 2, 4 and 5 to the Migration Regulations are amended as follows—

(a) in Schedule 1 (modification of enactments: making conversion decisions), renumber paragraphs 28 to 40 as paragraphs 1 to 13 respectively;

(b) in Schedule 2 (modification of enactments: after the conversion phase), renumber paragraphs 41 to 66 as paragraphs 1 to 26 respectively;

(c) in Schedule 4 (consequential amendments), renumber paragraphs 67 and 68 as paragraphs 1 and 2 respectively; and

(d) in Schedule 5 (amendments to legislation relating to housing benefit and council tax benefit), renumber paragraphs 69 to 71 as paragraphs 1 to 3 respectively.

(2) In the following provisions of these Regulations and in the Migration Regulations, all references to paragraph numbers in Schedules 1, 2, 4 and 5 to the Migration Regulations are to those Regulations as renumbered by paragraph (1).

Migration Regulations: amendment of Schedule 1

16.—(1) Schedule 1 to the Migration Regulations (modification of enactments: making conversion decisions) is amended as follows.

(2) For paragraph 2 (modification of section 1 of the 2007 Act for the purpose of making conversion decisions), substitute—

“2. 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;

(21) 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.

(22) 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](#).

- (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—
 - (i) regulation 13(2)(b) or (bb) of the Income Support (General) Regulations 1987 (circumstances in which persons in relevant education may be entitled to income support), or
 - (ii) paragraph 10 (disabled students) or 12 (deaf students) of Schedule 1B to those Regulations,
 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.”.
- (3) After paragraph 10 (disapplication of regulation 30 of the 2008 Regulations) insert—

“**10A.** In the case of a person who is entitled to an existing award of income support and who is a person to whom paragraph (1) of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004(23) applies, regulation 70 (special cases: supplemental – persons from abroad) is to be read as if—

 - (a) the word “or” at the end of paragraph (4)(k) were omitted; and
 - (b) at the end of paragraph (4)(jj) the word “or” and the following sub-paragraph were added—
 - “(l) a person who is entitled to an existing award of income support where that person is a person to whom paragraph (1) of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004 applies”.”.
- (4) In paragraph 13(a) (modification of regulation 32 of the Social Security (Claims and Payments) Regulations 1987(24)) omit “a decision on”.

Migration Regulations: Amendment of Schedule 2

17.—(1) Schedule 2 to the Migration Regulations (modification of enactments: after the conversion phase) is amended as follows.

(2) For paragraph 2(a) (modification of section 1 of the 2007 Act after the conversion phase), substitute—

“(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;
- (b) that conversion decision has come into effect; and
- (c) where—

(23) S.I. 2004/1232. These Regulations were partially revoked by S.I. 2006/217 but the transitional arrangements and savings in regulation 6 of S.I. 2004/1232 continued in force (with the exception of paragraph (2)(a)). S.I. 2004/1232 was then revoked by S.I. 2006/1026 but those transitional arrangements and savings continue in force by virtue of regulation 11(2)(b) of S.I. 2006/1026.

(24) S.I. 1987/1968.

- (i) the effect of that conversion decision is that the person is entitled to an income-related allowance, or
- (ii) the effect of that conversion decision is that the person is entitled to a contributory allowance and the person subsequently becomes entitled to an income-related allowance,

the person also satisfies the conditions set out in Part 2 of Schedule 1 (conditions relating to financial position), except for the condition in paragraph 6(1)(g) in the case of a person who, before that conversion decision was made, had been entitled to an existing award of income support by virtue of regulation 13(2)(b) or (bb) of the Income Support (General) Regulations 1987 (circumstances in which persons in relevant education may be entitled to income support), or paragraph 10 (disabled students) or 12 (deaf students) of Schedule 1B to those Regulations.”; and”.

- (3) After paragraph 4, insert—

“**4A.** Schedule 1 to the 2007 Act (employment and support allowance: additional conditions) is to be read as if, in paragraph 6, after sub-paragraph (1), there were inserted—

“(1A) Paragraphs (1B) and (1C) apply where any person (“P”) is entitled 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”) to an employment and support allowance which is attributable to an income-related allowance.

(1B) In determining for the purposes of paragraph 6(1)(a) whether P’s income exceeds the applicable amount, the amount of any transitional addition to which P is entitled under the 2010 Regulations shall be disregarded.

(1C) Where—

- (a) P ceases to satisfy the condition set out in sub-paragraph (1)(a); but
- (b) otherwise remains entitled to an amount by way of a transitional addition under the 2010 Regulations,

the condition set out in sub-paragraph (1)(a) shall be treated as satisfied in P’s case and the amount of income-related allowance to which P is entitled shall be the amount of the transitional addition.””

- (4) After paragraph 6, insert—
“Income Tax (Earnings and Pensions) Act 2003

6A. The Income Tax (Earnings and Pensions) Act 2003(**25**) is to be read as if—

- (a) in section 660(1) (taxable benefits: UK benefits), in Table A—
 - (i) in the first column, after the entry for “Contributory employment and support allowance”, there were inserted a new entry “Contributory employment and support allowance (including any transitional addition to which a person is entitled in connection with that award)”,
 - (ii) in the second column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “WRA 2007”,
 - (iii) in the third column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “Section 1(2) (as modified and applied by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council

Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”)), and

(iv) under the text inserted in the second and third columns by sub-paragraphs (ii) and (iii), there were inserted “Any provision made for Northern Ireland which corresponds to section 1(2) of WRA 2007 (as modified and applied by any provision made for Northern Ireland which corresponds to those contained in the 2010 Regulations)”;

(b) in section 661(1) (taxable social security income), after “contributory employment and support allowance” there were inserted “contributory employment and support allowance (including any transitional addition to which a person is entitled in connection with that award)”;

(c) in section 677(1) (UK social security benefits wholly exempt from tax), in Table B–

(i) in the first column, after the entry for “Income-related employment and support allowance”, there were inserted a new entry “Income-related employment and support allowance (including any transitional addition to which a person is entitled in connection with that award)”;

(ii) in the second column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “WRA 2007”;

(iii) in the third column, corresponding to the entry inserted by sub-paragraph (i), there were inserted “Section 1(2) (as modified and applied by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”))”, and

(iv) under the text inserted in the second and third columns by sub-paragraphs (ii) and (iii), there were inserted “Any provision made for Northern Ireland which corresponds to section 1(2) of WRA 2007 (as modified and applied by any provision made for Northern Ireland which corresponds to those contained in the 2010 Regulations)”.

(5) In paragraph 11 (modification of regulation 45 of the 2008 Regulations: exempt work), the definition of “specified work” in regulation 45 as modified by that paragraph is amended as follows—

(a) after sub-paragraph (a) insert “or”; and

(b) omit sub-paragraph (c) (and the preceding “or”).

(6) Paragraph 15, which modifies regulation 147A of the 2008 Regulations (claimants appealing against a conversion decision) in relation to a person appealing a conversion decision, is amended as follows.

(7) After paragraph (1) of the modified regulation 147A, insert—

“(1A) A person to whom this regulation applies who has made and is pursuing an appeal against a conversion decision in respect of an existing award of incapacity benefit or severe disablement allowance shall be treated as having satisfied the conditions in Part 1 of Schedule 1 to the Act (contributory allowance: conditions relating to national insurance).”.

(8) In paragraph 17 (modification of the Social Security (Claims and Payments) Regulations 1987) for “58 to 61” substitute “18 to 22”.

(9) Paragraph 18 (modification of regulation 3 of the Social Security (Claims and Payments) Regulations 1987) is amended as follows—

(a) in sub-paragraph (a)–

(i) omit “; or” where it first occurs, and

(ii) for the inserted sub-paragraphs (iii) and (iv), substitute—

“(k) the beneficiary—

(i) 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

(ii) 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;”;

(b) in sub-paragraph (b)—

(i) for “(j)” substitute “(k)”, and

(ii) for “(k)” substitute “(l)”.

(10) In paragraph 21(b)(ii) (modification of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987) for “52 and 53” substitute “12 and 13”.

(11) After paragraph 22 (modification of the Social Security (Claims and Payments) Regulations 1987) insert—

“Community Charges (Deductions from Income Support) (Scotland) Regulations 1989

22A. Regulation 1 of the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989⁽²⁶⁾ (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.”.

(12) After paragraph 25 (modification of the Council Tax (Deductions from Income Support) Regulations 1999) insert—

“Social Security and Child Support (Decisions and Appeals) Regulations 1999

(26) *S.I. 1989/507*. These Regulations were made under section 31(3) of, and paragraph 7A of Schedule 2 to, the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (1987 c. 47) and those provisions remain in force, notwithstanding that the Local Government Finance Act 1992 (1992 c. 14) provides for the eventual repeal of the whole of that Act.

25A.—(1) Regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(**27**) (revision of decisions) is to be read as if—

- (a) in the case of a revision of a decision to award jobseeker’s allowance made following the reinstatement of an existing award in accordance with regulation 15(5) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”), the words “within one month of the date of notification of the original decision” in paragraph (1)(a) were omitted;
- (b) in the case of a conversion decision where there has been a change of circumstances to which regulation 12(4) of the 2010 Regulations (calculation of transitional addition) applies, paragraph (9)(a) were omitted; and
- (c) in paragraph (9)(a), for “in the case of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations” there were substituted, “in the cases of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations or a conversion decision within the meaning of regulation 5(2)(a) of the 2010 Regulations”.

(2) Regulation 6(2)(a)(i) of those Regulations(**28**) (supersession of decisions) is to be read as if for “in the case of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations or regulation 146 of the Employment and Support Allowance Regulations” there were substituted “in the cases of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations or regulation 146 of the Employment and Support Allowance Regulations or a conversion decision within the meaning of regulation 5(2)(a) of the 2010 Regulations”.

Migration Regulations: amendment of Schedule 3

18.—(1) Schedule 3 to the Migration Regulations (list of regulations that apply after the conversion phase) is amended as follows.

(2) After “The Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996” insert—

“The Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations 1996(**29**)

Migration Regulations: amendment of Schedule 4

19.—(1) Schedule 4 to the Migration Regulations (consequential amendments) is amended as follows.

(2) After paragraph 1 insert—
“The Jobseeker’s Allowance Regulations 1996

1A.—(1) In regulation 55(4) of the Jobseeker’s Allowance Regulations 1996(**30**) (short periods of sickness), for the words after “allowance”, where it appears for the first time, to the end of that paragraph, substitute “or 8 weeks of the person’s entitlement to statutory sick pay.”.

(27) S.I. 1999/991. Paragraph (1) of regulation 3 was amended by S.I. 2002/1379, regulation 3(a). Paragraph (9) of regulation 3 of S.I. 1999/991 was substituted by S.I. 1999/2677, regulation 6(b). Paragraph (9)(a) of regulation 3 of S.I. 1999/991 was amended by S.I. 2005/337, regulation 2(1) and 2(2)(c).

(28) Paragraph (2)(a)(i) was amended by regulation 3(3)(a) of S.I. 2003/1050, regulations 2(1) and (4)(a) of S.I. 2005/337 and regulations 29, 32(1) and 32(2)(a) of S.I. 2008/1554. Paragraph (2) has been amended by other instruments but not in a way material to these Regulations.

(29) S.I. 1996/2349.

(30) S.I. 1996/507. Regulation 55 has been amended but not in a way material to these Regulations.

(2) In regulation 55A(1) of those Regulations⁽³¹⁾ (periods of sickness and persons receiving treatment outside Great Britain), omit “incapacity benefit,” and “, severe disablement allowance or income support”.

(3) In paragraph 20H of Schedule 1 to those Regulations⁽³²⁾ (additional conditions for higher pensioner and disability premium) omit sub-paragraph (2).”.

(3) In the heading to paragraph 2, for “2005” substitute “2008”.

Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

20. In regulation 7(2)(q)(ii) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001⁽³³⁾ (decisions superseding earlier decisions), for “the claimant is appealing a conversion decision” substitute “the claimant or the claimant’s partner is appealing a conversion decision”.

2008 Regulations: amendment of regulation 148

21.—(1) Regulation 148 of the 2008 Regulations (work or training beneficiaries) is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (a), substitute—

“(a) had limited capability for work—

(i) for more than 13 weeks in the most recent past period of limited capability for work; or

(ii) for 13 weeks or less in the most recent past period of limited capability for work where the claimant became entitled to an award of an employment and support allowance by virtue of a conversion decision which took effect from the commencement of the most recent past period of limited capability for work;”;

(b) for sub-paragraph (c), substitute—

“(c) became engaged in work or training within one month of so ceasing to be entitled.”.

(3) In paragraph (3), after the definition of “allowance or advantage”, insert—

““conversion decision” has the meaning given 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;”.

2008 Regulations: amendment of regulation 149

22.—(1) Subject to paragraph (4), regulation 149 of the 2008 Regulations (linking rules-limited capability for work) is amended as follows.

(2) For paragraph (1), substitute—

⁽³¹⁾ Regulation 55A was inserted by regulation 3(6) of [S.I. 2004/1869](#). It has been amended but not in a way material to these Regulations.

⁽³²⁾ Paragraph 20H was inserted by regulation 2(5) of, and paragraph 53 of Schedule 2 to, [S.I. 2000/1978](#). It has been amended but not in a way material to these Regulations.

⁽³³⁾ [S.I. 2001/1002](#). Regulation 7(2)(p) and (q) were added by paragraph 3(2) (as renumbered by these Regulations) of Schedule 5 to the Migration Regulations, [S.I. 2010/1907](#).

“(1) Where the circumstances in paragraph (2) apply, a work or training beneficiary is to be treated as having limited capability for work from the first day within the linking term in respect of which that beneficiary claims an employment and support allowance.”.

(3) In paragraph (2)(b), for “in the most recent past period of limited capability for work, it had been determined that the work or training beneficiary had limited capability for work” substitute “it had been determined that the work or training beneficiary had limited capability for work in the most recent past period of limited capability for work or where that determination was embodied in a conversion decision”.

(4) Paragraphs (2) and (3) apply only in relation to the following cases—

- (a) a claim for an employment and support allowance made on or after 1st November 2010, whether or not the claim is in respect of a period commencing before that date; and
- (b) a claim for an advance award under regulation 13 of the Social Security (Claims and Payments) Regulations 1987—
 - (i) made before 1st November 2010, and
 - (ii) in respect of a period beginning on or after that date.

2008 Regulations: amendment of regulation 150

23.—(1) Subject to paragraph (3), regulation 150 of the 2008 Regulations (linking rules-limited capability for work-related activity) is amended as follows.

(2) For regulation 150, substitute—

“Linking rules – limited capability for work-related activity

150. Where a work or training beneficiary was a member of the support group when the most recent past period of limited capability for work came to an end, that work or training beneficiary is to be treated as having limited capability for work-related activity from the first day within the linking term in respect of which that beneficiary claims an employment and support allowance.”.

(3) Paragraph (2) applies only in relation to the following cases—

- (a) a claim for an employment and support allowance made on or after 1st November 2010, whether or not the claim is in respect of a period commencing before that date; and
- (b) a claim for an advance award under regulation 13 of the Social Security (Claims and Payments) Regulations 1987—
 - (i) made before 1st November 2010, and
 - (ii) in respect of a period beginning on or after that date.

Signed by authority of the Secretary of State for Work and Pensions.

4th October 2010

Chris Grayling
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the Migration Regulations”) and the Employment and Support Allowance Regulations 2008 (“the 2008 Regulations”). They also make a small amendment to the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001. The Migration Regulations set out the process for determining whether existing awards (of incapacity benefit, severe disablement allowance or income support on the grounds of incapacity) are to be converted into awards of an employment and support allowance (“ESA”).

Regulation 1 provides for the citation, commencement and interpretation of these Regulations.

Regulation 2 amends regulation 1 of the Migration Regulations (commencement), so as to allow for the commencement of paragraph 1A of Schedule 4 to those Regulations (to be inserted by regulation 19(2) of these Regulations) on 31st January 2011.

Regulation 3 amends regulation 3 of the Migration Regulations (persons to whom those Regulations apply) so as to make definitively clear that the regulations within those Regulations which relate to the conversion process (namely regulations 4 to 22) apply to any person who, on or after 1st October 2010, is entitled to an existing award.

Regulation 4 amends regulation 7 of the Migration Regulations (qualifying for conversion) and applies where a person’s existing award qualifies for conversion, but that person is already entitled to an award of ESA. This could happen where a person previously in receipt of an incapacity benefit award: (i) appeals the decision to terminate their entitlement, (ii) claims and is entitled to ESA whilst awaiting the outcome of the appeal and (iii) is successful in their appeal and therefore becomes entitled again to incapacity benefit. Regulation 7 of the Migration Regulations as amended by regulation 4 provides that such a person is to be taken as having satisfied one of the basic conditions of entitlement for ESA, namely that the claimant has limited capability for work.

Regulation 5 amends regulation 8 of the Migration Regulations (amount of an employment and support allowance on conversion) so that (i) where a person qualifies for conversion by virtue of having already been entitled to ESA (under regulation 7 of the Migration Regulations as amended) and (ii) there had been a determination that that person had or did not have, limited capability for work-related activity, that determination shall be treated as having been made for the purposes of the first step of determining the amount of ESA to which a person is entitled.

Regulation 6 amends regulation 10 of the Migration Regulations so as to list definitively all the elements of incapacity benefit and severe disablement allowance needed to calculate the weekly rate payable of those benefits. This is so as to allow the Secretary of State to calculate the correct amount of transitional addition. It also sets out what amounts shall be disregarded when calculating the weekly rates of those benefits.

Regulation 7 amends regulation 14 of the Migration Regulations, particularly in relation to cases where a person’s existing award of income support qualifies for conversion to an award of ESA and that person satisfies another condition of entitlement for income support. If the person notifies the Secretary of State of their wish to remain entitled to income support, then any entitlement to incapacity benefit, severe disablement allowance or an income support disability premium (where entitlement arises solely on the grounds of incapacity) terminates immediately before the effective date of the conversion decision but they will remain on income support. Regulation 14 of the

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

Migration Regulations (as amended by regulation 7(4)) also provides that where a person is already entitled to an award of an employment and support allowance by virtue of the Welfare Reform Act 2007 (i.e. not by virtue of the Migration Regulations) then that award shall terminate immediately before the effective date of a person's conversion decision.

Regulation 8 makes similar provision to regulation 7 but applies where the conversion decision is that an existing award of income support does not qualify for conversion.

Regulation 9 amends regulation 17 of the Migration Regulations in consequence of the changes made to regulations 14 and 15 of the Migration Regulations by regulations 7 and 8 of these Regulations.

Regulation 10 amends regulation 19 of the Migration Regulations to clarify how the amount of the transitional addition is to be reduced where a person has dependent children.

Regulation 11 amends regulation 20 of the Migration Regulations to clarify how the amount of the transitional addition is to be reduced where a person has dependent adults.

Regulation 12 amends regulation 21 of the Migration Regulations (termination of transitional addition) so as to provide, amongst other things, that where regulation 145(1) of the 2008 Regulations applies – which allows for two periods of limited capability for work to be linked for a particular period – what would otherwise have been a termination of a transitional addition is instead a suspension. This occurs only where it is determined that a person has limited capability for work (in relation to a claim subsequent to when that determination was first made as part of a conversion decision).

Regulation 13 adds the provision in the Social Security Contributions and Benefits Act 1992 covering days and periods of incapacity for work to the list of provisions disappplied following a conversion decision.

Regulation 14 inserts regulation 23A into the Migration Regulations, so as to end entitlement to an income support disability premium related to being incapable of work, subject to savings.

Regulation 15 corrects the paragraph numbering of Schedules 1, 2, 4 and 5 to the Migration Regulations.

Regulation 16 makes amendments to Schedule 1 to the Migration Regulations (modification of enactments for the purpose of making conversion decisions). In particular, paragraph (2) ensures that persons receiving relevant education and entitled to an existing award of income support as a result can qualify for an award of ESA.

Regulation 17 makes a number of amendments to Schedule 2 to the Migration Regulations (modification of enactments: after the conversion phase) including-

- Paragraph (2) amends the conditions of entitlement for ESA following the conversion phase so as to include the conditions relating to financial position in Part 2 of Schedule 1 to the Welfare Reform Act 2007, where a person's award of income support converts to one of ESA.
- Paragraph (4) modifies the Income Tax (Earnings and Pensions) Act 2003 so as to make clear that contributory ESA, which attracts income tax liability, includes any transitional addition to which a person is entitled under the Migration Regulations.
- Paragraphs (6) and (7) provide that a person who has made and is pursuing an appeal against a conversion decision where they had previously been entitled to an existing award of incapacity benefit or severe disablement allowance is treated as having already satisfied the contributions conditions for contributory ESA. This is to make it easier for such a person to then become entitled to that benefit were their appeal to be successful.
- Paragraph (12) modifies the Social Security and Child Support (Decisions and Appeals) Regulations 1999 so as to make it possible to revise certain types of decisions relating to the conversion process in particular circumstances which that legislation would otherwise have prevented.

Regulation 18 amends Schedule 3 to the Migration Regulations (list of regulations that apply after the conversion phase) to include the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996.

Regulation 19 amends Schedule 4 to the Migration Regulations (consequential amendments) to include amendments to the provisions in the Jobseeker's Allowance Regulations 1996 which allow an award of a jobseeker's allowance ("JSA") to continue while a person is incapable of work for up to two weeks (regulation 55) and enable entitlement to JSA to continue during certain temporary absences (regulation 55A). The amendments to those Regulations (i) remove the disapplication from regulation 55 where a person had been unable to work within 8 weeks of an entitlement to incapacity benefit, severe disablement allowance or income support, and (ii) remove references to those benefits from regulation 55A.

Paragraph (3) of regulation 19 corrects a drafting error in Schedule 4.

Regulation 20 amends the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (which had been amended by Schedule 5 to the Migration Regulations) to ensure that certain housing benefit decisions may be superseded where a claimant's partner is appealing a conversion decision.

Regulations 21 to 23 make a number of amendments to regulations 148 to 150 of the 2008 Regulations relating to "work or training beneficiaries" ("WTB"). The effect of the amendments is to expand the definition of a WTB, so as to include those whose previous period of limited capability for work lasted for less than 13 weeks immediately following their migration to ESA from another benefit. A further change is that a WTB is treated as having limited capability for work from the first day within a linking term (i.e. a period of 104 weeks from the first day immediately following the last day in a period of limited capability for work) rather than for a 13 week period within that linking term.

A full impact assessment of the effect that the Migration Regulations will have on the public sector is available from the Department for Work and Pensions, Level 1, Caxton House, Tothill Street, London SW1H 9NA and was annexed to the Explanatory Memorandum for [S.I. 2010/875](#), which was available alongside that instrument on the OPSI website. These Regulations will have no further impact on the public sector and so a separate impact assessment has not been prepared. As with the Migration Regulations, these Regulations have no impact on the private or voluntary sectors.