STATUTORY INSTRUMENTS

# 2013 No. 379

## SOCIAL SECURITY

The Employment and Support Allowance Regulations 2013

Made - - - -Coming into force 25th February 2013 29th April 2013

## THE EMPLOYMENT AND SUPPORT ALLOWANCE REGULATIONS 2013

#### PART 1

#### General

- 1. Citation, commencement and application
- 2. Interpretation
- 3. Further interpretation
- 4. Rounding of fractions

#### PART 2

#### The assessment phase

- 5. The end of the assessment phase
- 6. The assessment phase previous claimants
- 7. Circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply

#### PART 3

#### Conditions of entitlement

- 8. Conditions relating to national insurance and relevant earnings
- 9. Relaxation of the first contribution condition
- 10. Condition relating to youth claimants aged 20 or over but under 25
- 11. Condition relating to youth previous claimants
- 12. Condition relating to youth residence or presence
- 13. Condition relating to youth full-time education
- 14. Modification of the relevant benefit year

## PART 4

## Limited Capability for Work

- 15. Determination of limited capability for work
- 16. Certain claimants to be treated as having limited capability for work
- 17. Information required for determining capability for work
- 18. Failure to provide information in relation to limited capability for work
- 19. Claimant may be called for a medical examination to determine whether the claimant has limited capability for work
- 20. Matters to be taken into account in determining good cause in relation to regulations 18 or 19
- 21. Hospital patients
- 22. Claimants receiving certain treatment
- 23. Claimant to be treated as having limited capability for work throughout a day
- 24. Night workers
- 25. Exceptional circumstances
- 26. Conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made
- 27. Certain claimants to be treated as not having limited capability for work
- 28. Claimants to be treated as not having limited capability for work at the end of the period covered by medical evidence
- 29. Additional circumstances where claimants are to be treated as having limited capability for work

## PART 5

## Limited Capability for Work-related Activity

- 30. Determination of limited capability for work-related activity
- 31. Certain claimants to be treated as having, or not having, limited capability for work-related activity
- 32. Relevant linked cases limited capability for work-related activity
- 33. Information required for determining capability for work-related activity
- 34. Failure to provide information in relation to work-related activity
- 35. Claimant may be called for a medical examination to determine whether the claimant has limited capability for work-related activity
- 36. Matters to be taken into account in determining good cause in relation to regulations 34 or 35

## PART 6

Effect of work on entitlement to an Employment and Support Allowance

- 37. A claimant who works to be treated as not entitled to an employment and support allowance
- 38. Claimants who are treated as not entitled to any allowance at all by reason of regulation 37(1) are to be treated as not having limited capability for work
- 39. Exempt work
- 40. Effect of work on entitlement to an employment and support allowance where claimant is receiving certain treatment

## PART 7

#### Claimant responsibilities

- 41. Interpretation
- 42. Application of regulations where there is dual entitlement
- 43. Sanction ceases to apply to employment and support allowance
- 44. Claimant commitment date and method of acceptance
- 45. Claimant commitment exceptions
- 46. Purposes of a work-focused interview
- 47. Claimants subject to no work-related requirements
- 48. Claimants subject to work-focused interview requirement only
- 49. Victims of domestic violence

#### PART 8

#### Sanctions

- 50. Interpretation
- 51. General principles for calculating reduction periods
- 52. Low-level sanction
- 53. Lowest-level sanction
- 54. Start of the reduction
- 55. Reduction period to continue where award of employment and support allowance terminates
- 56. Suspension of a reduction where a fraud sanction applies
- 57. Termination of a reduction
- 58. Amount of reduction for each benefit week
- 59. Daily reduction rate
- 60. Lower daily reduction rate
- 61. Sanctions where universal credit ends and the person is entitled to an employment and support allowance

#### PART 9

#### Amounts of Allowance

- 62. Prescribed amounts
- 63. Special cases
- 64. Permanent health insurance
- 65. Financial Assistance Scheme
- 66. Councillor's allowance
- 67. Deductions for pension payment and PPF payment
- 68. Payments treated as not being payments to which section 3 applies
- 69. Deductions for councillor's allowance
- 70. Date from which payments are to be taken into account
- 71. Date from which a change in the rate of the payment takes effect
- 72. Calculation of payment made other than weekly
- 73. Effect of statutory maternity pay on an employment and support allowance
- 74. Effect of statutory adoption pay on an employment and support allowance
- 75. Effect of additional statutory paternity pay on an employment and support allowance

## PART 10

#### Income and earnings

- 76. Calculation of earnings derived from employed earner's employment and income other than earnings
- 77. Calculation of earnings of self-employed earners
- 78. Date on which income is treated as paid
- 79. Calculation of weekly amount of income
- 80. Earnings of employed earners
- 81. Calculation of net earnings of employed earners
- 82. Earnings of self-employed earners
- 83. Calculation of net profit of self-employed earners
- 84. Deduction of tax and contributions for self-employed earners

## PART 11

## Supplementary provisions

- 85. Waiting days
- 86. Linking period
- 87. Claimants appealing a decision
- 88. Absence from Great Britain
- 89. Short absence
- 90. Absence to receive medical treatment
- 91. Absence in order to receive NHS treatment
- 92. Absence of member of family of member of Her Majesty's forces

## PART 12

## Disqualification

- 93. Disqualification for misconduct etc
- 94. Meaning of "person in hardship"
- 95. Treating a claimant as not having limited capability for work
- 96. Exceptions from disqualification for imprisonment
- 97. Suspension of payment of an employment and support allowance during imprisonment

## PART 13

#### Periods of less than a week

- 98. Entitlement for less than a week amount of an employment and support allowance payable
- 99. Relevant week
- 100. Modification in the calculation of income
- 101. Reduction in certain cases
- Payment of an employment and support allowance for days of certain treatment Signature

SCHEDULE 1 — Her Majesty's Forces

PART 1 — Prescribed establishments and organisations

- 1. Any of the regular naval, military or air forces of...
- 2. Royal Fleet Reserve.
- 3. Royal Navy Reserve.
- 4. Royal Marines Reserve.
- 5. Army Reserve.
- 6. Territorial Army.
- 7. Royal Air Force Reserve.
- 8. Royal Auxiliary Air Force.
- 9. The Royal Irish Regiment, to the extent that its members...
  - PART 2 Establishments and organisations of which Her Majesty's forces do not consist
- 10. Her Majesty's forces are not to be taken to consist...

SCHEDULE 2 — Assessment of Whether a Claimant has Limited Capability for Work

- PART 1 Physical Disabilities
- PART 2 Mental, cognitive and intellectual function assessment
- SCHEDULE 3 Assessment of whether a claimant has limited capability for work-related activity

Explanatory Note