
STATUTORY INSTRUMENTS

2008 No. 1554

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

PART 5

Miscellaneous Amendments

CHAPTER 5

Miscellaneous Amendments

Amendment of the Social Security (Medical Evidence) Regulations 1976

68.—(1) The Social Security (Medical Evidence) Regulations 1976⁽¹⁾ are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation) after the definition of “the Contributions and Benefits Act”⁽²⁾ insert—

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

“limited capability for work” has the meaning given in section 1(4) of the Welfare Reform Act 2007;

“limited capability for work assessment” means the assessment of whether a person has limited capability for work as set out in regulation 19(2) of, and in Schedule 2 to, the Employment and Support Allowance Regulations;”.

(3) In regulation 2 (evidence of incapacity for work and confinement)—

(a) in the heading, after “incapacity for work” insert “, limited capability for work”;

(b) in paragraph (1)⁽³⁾—

(i) after “incapable of work” insert “or having limited capability for work”;

(ii) after “personal capability assessment” each time it occurs insert “or the limited capability for work assessment”;

(iii) after “evidence of such incapacity” insert “or limited capability for work”; and

(iv) in sub-paragraph (c) after “incapable of work” insert “or whether a person has or does not have limited capability for work”; and

(c) in paragraph (2)⁽⁴⁾ after “personal capability assessment” insert “or the limited capability for work assessment”.

(4) In regulation 5⁽⁵⁾ (self-certificate for first 7 days of a spell of incapacity for work)—

(1) [S.I. 1976/615](#).

(2) Definition was inserted by [S.I. 1994/2975](#).

(3) Paragraph (1) was amended by [S.I. 1982/699](#), [1992/247](#), [1994/2975](#), [1995/987](#) and [2000/590](#).

(4) Paragraph (2) was amended by [S.I. 1994/2975](#) and [1999/3190](#).

(5) Regulation 5 was inserted by [S.I. 1982/699](#) and amended by [S.I. 1994/2975](#).

- (a) in the heading after “incapacity for work” insert “or limited capability for work”;
- (b) in paragraph (1)—
 - (i) after “incapacity” insert “or limited capability for work”;
 - (ii) after sub-paragraph (a) omit “or”;
 - (iii) after sub-paragraph (b) insert—
 - “(c) for a period of limited capability for work which lasts less than 8 days; or
 - (d) in respect of any of the first 7 days of a longer period of limited capability for work,”; and
- (c) in paragraph (2) for the definition of “self-certificate” substitute—
 - ““self-certificate” means either—
 - (i) a declaration made by the claimant in writing, on a form approved for the purpose by the Secretary of State; or
 - (ii) where the claimant has made a claim for employment and support allowance in accordance with regulation 4G of the Social Security (Claims and Payments) Regulations 1987, an oral declaration by the claimant,that the claimant has been unfit for work from a date or for a period specified in the declaration and may include a statement that the claimant expects to continue to be unfit for work on days subsequent to the date on which it is made;”.