
STATUTORY INSTRUMENTS

2011 No. 674

**The Social Security (Miscellaneous
Amendments) Regulations 2011**

Amendments to the Employment and Support Allowance Regulations 2008

16.—(1) The Employment and Support Allowance Regulations 2008⁽¹⁾ are amended as follows.

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

(a) after the definition of “first contribution condition” insert—

““First-tier Tribunal” has the meaning given by section 3(1) of the Tribunals, Courts and Enforcement Act 2007⁽²⁾”;

(b) in the definition of “medical evidence”, after “medical evidence” insert “, except in regulation 32A,”; and

(c) after the definition of “mobility supplement” insert—

““National Minimum Wage” means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999 (rate of the national minimum wage)”.

(3) In regulation 30(3) (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made), for “an appeal tribunal constituted under Chapter 1 of Part 1 of the Social Security Act 1998” substitute “the First-tier Tribunal”.

(4) In regulation 32A⁽³⁾ (claimants to be treated as not having limited capability for work at the end of the period covered by medical evidence)—

(a) the existing provision becomes paragraph (1);

(b) in paragraph (1)(a) omit “in accordance with regulation 30(2)(a)”;

(c) after paragraph (1) add—

“(2) In this regulation “medical evidence” means evidence provided under regulation 2 or 5 of the Medical Evidence Regulations.”.

(5) In regulation 45 (exempt work)—

(a) in paragraphs (3) and (4)⁽⁴⁾ for “£95.00” substitute “16 x National Minimum Wage, subject to paragraph (9A)”;

(b) after paragraph (9) insert—

“(9A) Where the amount determined by the calculation in paragraphs (3) and (4) would, but for this paragraph, include an amount of—

(a) less than 50p, that amount shall be rounded up to the nearest 50p; or

(1) [S.I. 2008/794](#).

(2) [2007 c. 15](#).

(3) Regulation 32A was inserted by regulation 9(9) of [S.I. 2010/840](#).

(4) Paragraphs (3) and (4) were amended by regulation 5(2) of [S.I. 2010/2126](#).

- (b) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.”.
- (6) In regulation 76 (deductions for councillor’s allowance)—
- (a) in paragraph (1)(5) for “£95.00” substitute “16 x National Minimum Wage, subject to paragraph (3)”;
- (b) after paragraph (2) add—
- “(3) Where the amount determined by the calculation in paragraph (1) would, but for this paragraph, include an amount of—
- (i) less than 50p, that amount shall be rounded up to the nearest 50p; or
- (ii) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.”.
- (7) In regulation 93 (date on which income is treated as paid)—
- (a) in paragraph (1) omit “or (3)”;
- (b) omit paragraphs (3) and (4).
- (8) In regulation 104(1) (calculation of income other than earnings) omit “and regulation 93(3) and (4) (date on which income is treated as paid)(6)”.
- (9) In regulation 149(1)(7) (linking rules-limited capability for work), after “employment and support allowance” add “until it is determined whether that beneficiary has, or is treated as having, limited capability for work following a limited capability for work assessment”.
- (10) In regulation 150(8) (linking rules-limited capability for work-related activity) after “employment and support allowance” add “until it is determined whether that beneficiary has, or is treated as having, limited capability for work-related activity in accordance with regulation 34 or 35”.
- (11) In Schedule 6 (housing costs)—
- (a) in paragraph 6(5)(b) after “income” insert “equal to or”;
- (b) in paragraph 15(1) omit “Subject to sub-paragraph (2),”;
- (c) omit paragraph 15(2); and
- (d) in paragraph 15(8)—
- (i) in paragraph (b) after “income” insert “equal to or”, and
- (ii) after paragraph (b) insert—
- “(bb) an amount of contributory allowance payable in respect of a claimant under section 2 that is equal to, or exceeds, the applicable amount in the claimant’s case; or”.
- (12) In paragraphs 5, 6 and 7 of Schedule 7(9) (sums to be disregarded in the calculation of earnings), for “£95.00”, wherever it appears, substitute “16 x National Minimum Wage”.
- (13) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings) in paragraph 7, for sub-paragraph (3)(10) substitute—
- “(3) Any increase in respect of a dependent child or dependent young person under section 80 or 90 of the Contributions and Benefits Act.”.

(5) Paragraph (1) was amended by regulation 5(3) of [S.I. 2010/2126](#).

(6) The same words were inserted in regulation 104(1) by regulation 11(7) of [S.I. 2009/2655](#).

(7) Regulation 149(1) was substituted by regulation 22(2) of [S.I. 2010/2430](#).

(8) Regulation 150 was substituted by regulation 23(2) of [S.I. 2010/2430](#).

(9) Paragraphs 5, 6 and 7 of Schedule 7 were last amended by regulation 5(4) of [S.I. 2010/2126](#).

(10) Sub-paragraph (3) was inserted by regulation 9(20)(a) of [S.I. 2010/840](#).

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