
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Employment and Support Allowance Regulations 2013

PART 6

Effect of work on entitlement to an Employment and Support Allowance

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

38.—(1) Where a claimant is treated as not entitled to an employment and support allowance by reason of regulation 37(1), the claimant is to be treated as not having limited capability for work.

(2) Paragraph (1) applies even if—

- (a) it has been determined that the claimant has or is to be treated as having, under any of regulations 16 (certain claimants to be treated as having limited capability for work), 21 (hospital in-patients), 22 (claimants undergoing certain treatment) and 25 (exceptional circumstances), limited capability for work; or
- (b) the claimant meets the conditions set out in regulation 26(2) for being treated as having limited capability for work until a determination is made in accordance with the limited capability for work assessment.