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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The Employment and Support Allowance Regulations 2013**

**PART 9**

Amounts of Allowance

**Effect of additional statutory paternity pay on an employment and support allowance**

**75.—**(1) This regulation applies where—

- (a) a claimant is entitled to additional statutory paternity pay and, on the day immediately preceding the first day in the additional paternity pay period, she—
  - (i) is in a period of limited capability for work; and
  - (ii) satisfies the conditions of entitlement to an employment and support allowance in accordance with section 1(2)(a) of the Act; and
- (b) on any day during the additional statutory paternity pay period—
  - (i) that claimant is in a period of limited capability for work; and
  - (ii) that day is not a day where that claimant is treated as not having limited capability for work.

(2) Where this regulation applies, notwithstanding section 20(6) of the Act, a claimant who is entitled to additional statutory paternity pay is to be entitled to an employment and support allowance in respect of any day that falls within the additional paternity pay period.

(3) Where by virtue of paragraph (2) a person is entitled to an employment and support allowance for any week (including part of a week), the total amount of employment and support allowance payable to that claimant for that week is to be reduced by an amount equivalent to any additional statutory paternity pay to which that claimant is entitled in accordance with Part 12ZA of the Contributions and Benefits Act<sup>(1)</sup> for the same week (or equivalent part of a week where entitlement to an employment and support allowance is for part of a week), and only the balance, if any, of the employment and support allowance is to be payable to that claimant.

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<sup>(1)</sup> Part 12ZA was inserted by section 2 of the Employment Act 2002.