

WELFARE REFORM ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 4: Miscellaneous

Schedules

Schedule 2 – Employment and support allowance: supplementary provision

300. This Schedule contains additional provisions in respect of the employment and support allowance. *Paragraph 1* confers powers to provide by regulations for claimants to be treated as having (or not having) limited capability for work, as well as to require capability for work to be determined afresh (or for the first time in the case of a person being treated as having limited capability for work, but who has never actually undergone an determination of capability for work). *Paragraph 9* makes equivalent provision for treating claimants as having (or not having) limited capability for work-related activity, as well as making equivalent provision for determining capability for work-related activity afresh (or for the first time for claimants being treated as having limited capability for work-related activity, but who have never actually undergone such a determination).
301. *Paragraph 2* provides that a person is not entitled to an employment and support allowance for a certain number of days at the beginning of a period of limited capability for work. It is intended that claimants will be required to wait for three days at the beginning of a period of limited capability for work, before becoming entitled to an employment and support allowance (as now under incapacity benefit). Paragraph 2 allows for exceptions whereby the waiting days do not need to be served, for example, where someone was previously entitled to another benefit, such as jobseeker's allowance, regulations may disapply the waiting days requirement to ensure that the claimant would not have a break in benefit entitlement.
302. *Paragraph 4* of this Schedule provides for periods of limited capability for work to be linked together and treated as one period of limited capability for work. Where periods are linked in this way then regulations can provide that a condition relating to an employment and support allowance that was satisfied in the earlier period of limited capability for work can be treated as satisfied in the later period of limited capability for work.
303. The Schedule also provides for regulations to prescribe circumstances where people are entitled to an employment and support allowance where they are not in Great Britain (for example, where they live abroad or are employed on a ship or oil rig) (*paragraphs 5 to 8*) and other additional matters.