
STATUTORY INSTRUMENTS

2008 No. 2428

The Employment and Support Allowance
(Miscellaneous Amendments) Regulations 2008

PART 1

General amendments of the principal Regulations

Amendment of Part 5 of the principal Regulations

5.—(1) In regulation 26 (claimants receiving certain regular treatment) for paragraph (2) substitute—

“(2) A claimant who receives the treatment referred to in paragraph (1) is only to be treated as having limited capability for work from the first week of treatment in which the claimant undergoes no fewer than—

- (a) two days of treatment;
- (b) two days of recovery from any of the forms of treatment listed in paragraph 1(a) to (c); or
- (c) one day of treatment and one day of recovery from that treatment,

but the days of treatment or recovery from that treatment or both need not be consecutive.”.

(2) In regulation 32 (certain claimants to be treated as not having limited capability for work)—

- (a) renumber regulation 32 as 32(1);
- (b) in paragraph (1), after “claimant” insert “who is or has been a member of Her Majesty’s forces”; and
- (c) after paragraph (1) add—

“(2) A claimant is to be treated as not having limited capability for work on any day on which the claimant attends a training course in respect of which the claimant is paid a training allowance or premium pursuant to arrangements made under section 2 of the Employment and Training Act 1973⁽¹⁾ or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990⁽²⁾.

(3) Paragraph (2) is not to apply—

- (a) for the purposes of any claim to employment and support allowance for a period commencing after the claimant ceased attending the training course in question; or
- (b) where any training allowance or premium paid to the claimant is paid for the sole purpose of travelling or meal expenses incurred or to be incurred under the

⁽¹⁾ 1973 c. 50. Section 2(1) was substituted by section 25(1) of the Employment Act 1988 (c.19).

⁽²⁾ 1990 c. 35. Section 2(3) was amended by section 47(2), (4)(a), section 51 of and Schedule 10 to the Trade Union Reform and Employment Act 1993 (c.19).

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arrangement made under section 2 of the Employment and Training Act 1973 or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990.”.