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STATUTORY INSTRUMENTS

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**2008 No. 794**

**The Employment and Support Allowance Regulations 2008**

**PART 7**

**EFFECT OF WORK ON ENTITLEMENT TO AN  
EMPLOYMENT AND SUPPORT ALLOWANCE**

**Meaning of “remunerative work” for the purposes of paragraph 6(1)(f) of Schedule 1 to the Act**

**42.**—(1) For the purposes of paragraph 6(1)(f) of Schedule 1 to the Act, (conditions of entitlement to an income-related allowance where a claimant must not be a member of a couple the other member of which is engaged in remunerative work), “remunerative work” means work in which the claimant's partner is engaged or, where the partner's hours of work fluctuate, the partner is engaged on average, for not less than 24 hours a week, being work for which payment is made or which is done in expectation of payment.

(2) In calculating the number of hours for which a claimant's partner is engaged in work so as to determine whether that partner is engaged in remunerative work, the number of hours are to be determined in accordance with paragraphs (8) and (9) of regulation 45 and those paragraphs are to be read as though they referred to the claimant's partner.

(3) The claimant's partner is to be treated as engaged in remunerative work during any period for which that partner is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(4) Subject to paragraph (5), a claimant's partner who was, or who was being treated as—

(a) engaged in remunerative work; and

(b) in respect of that work earnings to which regulation 95(1)(b) and (d) applies are paid,

is to be treated as being engaged in remunerative work for the period for which those earnings are taken into account in accordance with Part 10 of these Regulations.

(5) Paragraph (4) does not apply to earnings disregarded under paragraph 1 of Schedule 7 (sums to be disregarded in the calculation of earnings).

(6) For the purposes of this regulation, in determining the number of hours in which a claimant's partner is engaged or treated as engaged in remunerative work, no account is to be taken of any hours in which the claimant's partner is engaged in an employment or a scheme to which regulation 43(1) or (2) (claimants' partners not treated as engaged in remunerative work) applies.

**Changes to legislation:**

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Section 42.