
STATUTORY INSTRUMENTS

2010 No. 442

The Social Security (Persons Serving a Sentence of Imprisonment Detained in Hospital) Regulations 2010

Amendment of the Employment and Support Allowance Regulations 2008

- 5.—(1) The Employment and Support Allowance Regulations 2008(1) are amended as follows.
- (2) In regulation 69 (special cases) after paragraph (2) add—
- “(3) In Schedule 5 “person serving a sentence of imprisonment detained in hospital” means a person (“P”) who satisfies either of the following conditions.
- (4) The first condition is that—
- (a) P is being detained under section 45A or 47 of the Mental Health Act 1983 (power of higher courts to direct hospital admission; removal to hospital of persons serving sentences of imprisonment etc.); and
- (b) in any case where there is in relation to P a release date within the meaning of section 50(3) of that Act, P is being detained on or before the day which the Secretary of State certifies to be that release date.
- (5) The second condition is that P is being detained under—
- (a) section 59A of the Criminal Procedure (Scotland) Act 1995 (hospital direction); or
- (b) section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment of mental disorder).”.
- (3) In regulation 160(2) (exceptions for disqualification for imprisonment)—
- (a) in paragraph (3)—
- (i) after the words “a claimant” insert “(“C”);
- (ii) for the words “the claimant” (the first time they appear) substitute “C”;
- (iii) for the words beginning “the claimant is liable to be detained in a hospital” to the end of the paragraph substitute “C is detained in a hospital or similar institution in Great Britain as a person suffering from mental disorder unless C satisfies either of the following conditions”; and
- (b) for paragraph (4) substitute—
- “(4) The first condition is that—
- (a) C is being detained under section 45A or 47 of the Mental Health Act 1983 (power of higher courts to direct hospital admission; removal to hospital of persons serving sentences of imprisonment etc.); and
- (b) in any case where there is in relation to C a release date within the meaning of section 50(3) of that Act, C is being detained on or before the day which the Secretary of State certifies to be that release date.

(1) [S.I. 2008/794](#).

(2) Regulation 160 was amended by [S.I. 2008/2428](#).

- (4A) The second condition is that C is being detained under—
 - (a) section 59A of the Criminal Procedure (Scotland) Act 1995 (hospital direction);
or
 - (b) section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment of mental disorder).”
- (4) In Part 2 of Schedule 5 (special cases) in column (1)—
 - (a) for paragraph 12 and its heading substitute—

“Persons serving a sentence of imprisonment detained in hospital

- 12.** A person serving a sentence of imprisonment detained in hospital.”; and
- (b) before paragraph 13 insert the heading—

“Patients”.