
STATUTORY INSTRUMENTS

2012 No. 2756

**The Employment and Support Allowance
(Sanctions) (Amendment) Regulations 2012**

Amendment of Regulation 63 of the ESA Regulations (reduction of employment and support allowance)

4.—(1) Regulation 63 of the ESA Regulations (reduction of employment and support allowance) **(1)** is amended as follows.

(2) For paragraph (2) substitute—

“(2) Subject to paragraph (3), the amount of the reduction in relation to each failure determination is 100% of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4.”.

(3) In paragraph (3), in sub-paragraph (c), for “amount of the work-related activity component as set out in Part 4” substitute “prescribed amount for a single claimant as set out in paragraph 1(a) of Part 1”.

(4) After paragraph (5) insert—

“(6) Subject to paragraph (10), the reduction is to have effect for—

- (a) one week for each 7 day period during which the claimant fails to meet a compliance condition; and
- (b) a further fixed period determined in accordance with paragraph (7).

(7) The length of the fixed period is—

- (a) 1 week, where there has been no previous failure by the claimant which falls within paragraph (8);
- (b) 2 weeks, where there has been only one previous failure by the claimant which falls within paragraph (8); or
- (c) 4 weeks, where there have been two or more previous failures by the claimant and the most recent of those failures—
 - (i) falls within paragraph (8), and
 - (ii) resulted in a reduction that has effect for 2 weeks under sub-paragraph (b) or 4 weeks under this sub-paragraph, or would have done but for paragraph (3).

(8) A previous failure falls within this paragraph if—

- (a) it relates to a failure for which a reduction was imposed under this regulation, or would have been but for paragraph (3);
- (b) that failure occurred on or after 3rd December 2012; and
- (c) the date of that failure is within 52 weeks but not within 2 weeks of the date of the current failure.

(9) This paragraph applies where the claimant meets a compliance condition before the end of the period of one week after the date of the failure to which the failure determination relates.

(10) Where paragraph (9) applies, the claimant’s employment and support allowance is reduced only for the fixed period set out in paragraph (7) applicable to the claimant.

(11) In this regulation—

“compliance condition” means—

- (a) where the failure by the claimant relates to a requirement to take part in a work-focused interview, either—
 - (i) taking part in a work-focused interview, or
 - (ii) making an agreement with the Secretary of State to take part in a work-focused interview at an agreed date;
- (b) where the failure by the claimant relates to a requirement to undertake work-related activity, either—
 - (i) undertaking the activity specified in the action plan, or
 - (ii) where so notified by the Secretary of State, undertaking an alternative activity, or
 - (iii) making an agreement with the Secretary of State to undertake the activity referred to in sub-paragraph (i) or (ii) at an agreed date;

“current failure” means a failure which may lead to a reduction under this regulation in relation to which the Secretary of State has not yet determined whether the amount of the employment and support allowance payable to the claimant is to be reduced in accordance with this regulation.”.