
STATUTORY INSTRUMENTS

2012 No. 2756

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

Further amendments of the ESA Regulations

6. After regulation 64 (cessation of reduction) insert—

“Hardship payments

64A. The Secretary of State must make a hardship payment to a claimant only where—

- (a) the Secretary of State is satisfied that the claimant is or will be in hardship unless a hardship payment is made;
- (b) the claimant’s employment and support allowance has been reduced in accordance with regulation 63;
- (c) the claimant meets the conditions of entitlement to an income-related employment and support allowance;
- (d) the claimant completes and submits an application —
 - (i) approved for the purpose by the Secretary of State, or in such other form as the Secretary of State accepts as sufficient, and
 - (ii) in such manner as the Secretary of State determines; and
- (e) the claimant provides such information or evidence as the Secretary of State may require, in such manner as the Secretary of State determines.

Circumstances in which a claimant is to be treated as being in hardship

64B. A claimant is to be treated as being in hardship if the claimant’s partner, or a child or qualifying young person for whom the claimant or the claimant’s partner is responsible, is or will be in hardship unless a hardship payment is made.

Matters to be taken into account in determining hardship

64C.—(1) The Secretary of State must take the following matters into account in determining hardship—

- (a) whether the claimant’s partner or a person in the claimant’s family satisfies the requirements for a disability premium specified in paragraphs 6 and 7 of Schedule 4, or an element of child tax credit in respect of a child or young person who is disabled or severely disabled within the meaning of regulation 8 of the Child Tax Credit Regulations 2002;
- (b) the resources which are likely to be available to the household without a hardship payment, including resources from persons who are not members of the household, but excluding any payment referred to in paragraph (2);

- (c) the difference between the resources referred to in sub-paragraph (b) and the amount of the hardship payment that the claimant would receive;
- (d) whether there is substantial risk that the household will not have access to essential items (including food, clothing, heating and accommodation), or will have access to such essential items at considerably reduced levels, without a hardship payment; and
- (e) the length of time that the factors set out in sub-paragraphs (b) to (d) are likely to continue.

(2) The payments to be excluded from the resources referred to in paragraph (1)(b) are payments made under paragraph 7 (1) or (2) of Schedule 8 (sums to be disregarded in the calculation of income other than earnings: child tax credit and child benefit)(1) to the claimant or the claimant's partner in respect of a child or young person who is a member of the claimant's household or family.

The amount of a hardship payment

64D.—(1) A hardship payment is 60 per cent of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4.

(2) A payment calculated in accordance with paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.”.

(1) Paragraph 7 was amended by regulation 16(13) of S.I. 2011/674.