STATUTORY INSTRUMENTS

2017 No. 205

SOCIAL SECURITY

The Employment and Support Allowance (Exempt Work & Hardship Amounts) (Amendment) Regulations 2017

Made - - - -	*23rd February 2017*
Laid before Parliament	*27th February 2017*
Coming into force - -	*3rd April 2017*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 171D, 171G(2) and 175(3) of the Social Security Contributions and Benefits Act 1992(**a**), sections 16A(1)(**b**), 22, 24(1), 25(2) and (3) and paragraph 10 of Schedule 2 of the Welfare Reform Act 2007(**c**).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(**d**), the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

Citation and commencement

1. These Regulations may be cited as the Employment and Support Allowance (Exempt Work & Hardship Amounts) (Amendment) Regulations 2017 and come into force on 3rd April 2017.

PART 1

Exempt Work Amendments

Amendment of the Social Security (Incapacity for Work) (General) Regulations 1995

2. In regulation 17 of the Social Security (Incapacity for Work) (General) Regulations 1995(**e**)—

(a) in paragraph (4), omit the words from ", and which—" to the end;

(b) in paragraph (8), omit the definitions of "relevant benefit" and "specified work";

(c) omit paragraph (9).

(**a**) 1992 c.4. See section 171G(2) for the meaning of "prescribed".
(**b**) Section 16A inserted by the Welfare Reform Act 2012
(**c**) 2007 c.5.
(**d**) 1992 c.5.
(**e**) S.I. 1995/311. Relevant amending instruments are S.I.s 2006/757, 2010/840 and 2011/674.

Amendment of the Employment and Support Allowance Regulations 2008

3. In regulation 45 of the Employment and Support Allowance Regulations 2008(**a**) (exempt work)—

(a) in paragraph (4), omit the words from ", and which—" to the end;

(b) omit paragraph (4A);

(c) in paragraph (10), omit the definitions of "relevant benefit" and "specified work".

Amendment of the Employment and Support Allowance Regulations 2013

4. In regulation 39 of the Employment and Support Allowance Regulations 2013 (**b**) (exempt work)—

(a) in paragraph (1)(c), omit the words from ", and which is done" to the end;

(b) in paragraph (6), omit the definitions of "relevant benefit" and "work period";

(c) omit paragraph (7).

PART 2

Hardship Amounts

Amendment of the Employment and Support Allowance Regulations 2008

5. In regulation 64D of the Employment and Support Allowance Regulations 2008(**c**) (the amount of a hardship payment) for paragraph (1) substitute—

"(1) A hardship payment is either—

(a) 80% of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4(**d**) where—

(i) the claimant has an award of employment and support allowance which does not include entitlement to a work-related activity component under section 4(2)(b) of the Welfare Reform Act 2007 as in force immediately before 3rd April 2017; and

(ii) the claimant or any other member of their family is either pregnant or seriously ill; or

(b) 60% of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4 in any other case.".

Signed by authority of the Secretary of State for Work and Pensions

Penny Mordaunt
Minister of State,
Department for Work and Pensions

23rd February 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Social Security (Incapacity for Work) (General) Regulations 1995, the Employment and Support Allowance Regulations 2008 and the Employment and Support Allowance Regulations

(**a**) S.I. 2008/794. Relevant amending instruments are S.I.s 2010/840, 2011/674 and 2013/2536.
(**b**) S.I. 2013/379.
(**c**) Regulation 64D inserted by S.I. 2012/2756.
(**d**) Part 1 of Schedule 4 was substituted by Social Security Benefits Up-rating Order 2013/574. The figures in paragraph 1(a) were substituted by Welfare Benefits Up-rating Order 2015/30.

2013 limit the period for which claimants who are or who are treated as incapable of work or who have or who are treated as having limited capability for work (but not limited capability for work related activity) may undertake exempt work while continuing to be entitled to benefit. Under those Regulations, that period is limited to 52 weeks. As a result of the amendments in regulations 2 to 4, that limit is removed.

Regulation 5 makes amendments to the Employment and Support Allowance Regulations 2008 amending the way that the amount of any hardship payment is calculated so that—

(a) claimants will receive 80% of their prescribed amount where they are not in receipt of a work-related activity component as part of their award of employment and support allowance and either they or a member of their family is either—

  (i) pregnant; or

  (ii) seriously ill;

(b) in all other cases a claimant will receive 60% of their prescribed amount.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

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