
STATUTORY INSTRUMENTS

2008 No. 794

The Employment and Support Allowance Regulations 2008

PART 11

SUPPLEMENTARY PROVISIONS

CHAPTER 2

Work or training beneficiaries

Work or training beneficiaries

148.—(1) Subject to paragraph (2), a claimant is a “work or training beneficiary” on any day in a linking term where the claimant—

- (a) had limited capability for work for more than 13 weeks in the most recent past period of limited capability for work;
- (b) ceased to be entitled to an allowance or advantage at the end of that most recent past period of limited capability for work; and
- (c) became engaged in work or training within one month of so ceasing to be entitled to that benefit at the end of that most recent past period of limited capability for work.

(2) A claimant is not a work or training beneficiary if—

- (a) the most recent past period of limited capability for work was ended by a determination that the claimant did not have limited capability for work; and
- (b) that determination was on the basis of a limited capability for work assessment.

(3) For the purposes of this Part—

“allowance or advantage” means any allowance or advantage under the Act or the Contributions and Benefits Act for which entitlement is dependent on limited capability for work;

“linking term” means a period of 104 weeks from the first day immediately following the last day in a period of limited capability for work;

“work” means work, other than work under regulation 45 (exempt work), for which payment is made or which is done in expectation of payment.

Linking rules – limited capability for work

149.—(1) Where the circumstances in paragraph (2) apply, a work or training beneficiary is to be treated as having limited capability for work for a period of 13 weeks beginning on the day within the linking term on which the work or training beneficiary claims an employment and support allowance.

(2) The circumstances are that—

- (a) the work or training beneficiary provides evidence of limited capability for work in accordance with the Medical Evidence Regulations (which prescribe the form of the doctor's statement or other evidence required in each case); and
- (b) in the most recent past period of limited capability for work, it had been determined that the work or training beneficiary had limited capability for work—
 - (i) the claimant having been assessed in accordance with a limited capability for work assessment; or
 - (ii) as a result of the claimant being treated as having limited capability for work in accordance with regulation 20, 25, 26, 29 or 33(2) (persons to be treated as having limited capability for work).

Linking rules – limited capability for work-related activity

150. Where a work or training beneficiary was a member of the support group when the most recent past period of limited capability for work came to an end, that work or training beneficiary is to be treated as having limited capability for work-related activity for a period of 13 weeks beginning on the day within the linking term on which a claim for an employment and support allowance is made.