
DRAFT STATUTORY INSTRUMENTS

2011 No.

**The Employment and Support Allowance
(Work-Related Activity) Regulations 2011**

PART 2

Work-related activity

Requirement to undertake work-related activity

3.—(1) The Secretary of State may require a person who satisfies the requirements in paragraph (2) to undertake work-related activity⁽¹⁾ as a condition of continuing to be entitled to the full amount of employment and support allowance payable to that person.

(2) The requirements referred to in paragraph (1) are that the person—

- (a) is required to take part in, or has taken part in, one or more work-focused interviews pursuant to regulation 54 of the ESA Regulations;
- (b) is not a lone parent who is responsible for and a member of the same household as a child under the age of 5;
- (c) is not entitled to a carer's allowance; and
- (d) is not entitled to a carer premium under paragraph 8 of Schedule 4 to the ESA Regulations.

(3) A requirement to undertake work-related activity ceases to have effect if the person becomes a member of the support group⁽²⁾.

(4) A requirement imposed under paragraph (1)—

- (a) must be reasonable in the view of the Secretary of State, having regard to the person's circumstances; and
- (b) may not require the person to—
 - (i) apply for a job or undertake work, whether as an employee or otherwise; or
 - (ii) undergo medical treatment.

(5) A person who is a lone parent and in any week is responsible for and a member of the same household as a child under the age of 13, may only be required to undertake work-related activity under paragraph (1) during the child's normal school hours.

Directions about work-related activity

4.—(1) The circumstances in paragraph (2) are the circumstances prescribed for the purposes of section 15(1)(a) of the Act.

(2) The circumstances referred to in paragraph (1) are that—

(1) For the meaning of "work-related activity" see sections 13(7) and 24(1) of the Act.
(2) For the meaning of "member of the support group" see section 24(4) of the Act.

- (a) the person has been identified by the Secretary of State as having a barrier to work and in the view of the Secretary of State has refused to address that barrier; and
- (b) the Secretary of State considers that the activity specified in the direction given under section 15(1) of the Act is a prerequisite to the person's ability to obtain or remain in work.

Notification of work-related activity and action plans

5.—(1) The Secretary of State must notify a person of a requirement to undertake work-related activity by including the requirement in a written action plan given to the person.

(2) The action plan must specify—

- (a) the work-related activity which the person is required to undertake; and
- (b) any other information that the Secretary of State considers appropriate.

Requirement to undertake work-related activity at a particular time not to apply

6. The Secretary of State may determine that a requirement as to the time at or by which work-related activity is to be undertaken is not to apply, or is to be treated as not having applied, if in the view of the Secretary of State it would be, or would have been, unreasonable to require the person to undertake the activity at or by that time.

Reconsideration of action plans

7.—(1) A person may request reconsideration of an action plan.

(2) On receipt of a request the Secretary of State must reconsider the action plan.

(3) A decision of the Secretary of State following a request must be in writing and given to the person.

Failure to undertake work-related activity

8.—(1) A person who is required to undertake work-related activity but fails to do so must show good cause for the failure within 5 working days of the date on which the Secretary of State gives notice of the failure.

(2) The Secretary of State must determine whether a person who is required to undertake work-related activity has failed to do so and, if so, whether the person has shown good cause for the failure.

(3) In deciding whether a person has shown good cause for the failure, the Secretary of State must take account of all the circumstances of the case including in particular the person's physical or mental health or condition.