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STATUTORY INSTRUMENTS

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**2008 No. 2428**

The Employment and Support Allowance  
(Miscellaneous Amendments) Regulations 2008

PART 3

Miscellaneous Amendments

**Amendment of regulation 23**

**31.** In regulation 23 (amendment of Schedule 3)—

- (a) in sub-paragraph (b) in added paragraph (9) omit “within the meaning of section 1(4) of the Welfare Reform Act”;
- (b) in sub-paragraph (c) for the inserted sub-paragraph (a) substitute—
  - “(a) the Secretary of State has decided that the claimant has, or is to be treated as having, limited capability for work-related activity; or”;
- (c) for sub-paragraph (d) substitute—
  - “(d) after Part 4 (amounts of premiums specified in Part 3) add—

“PART 5

The components

**21.** Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraphs 23 or 24 if—

- (a) the claimant or the claimant’s partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the claimant or the claimant’s partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—
  - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
  - (ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

**22.—(1)** The claimant has no entitlement under paragraph 23 or 24 if the claimant is entitled to the disability premium under paragraphs 12 and 13.

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(2) Where the claimant and the claimant's partner each satisfies paragraph 23 or 24, the component to be included in the claimant's applicable amount is that which relates to the claimant.

**The work-related activity component**

**23.** The claimant is entitled to the work-related activity component if the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work.

**The support component**

**24.** The claimant is entitled to the support component if the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work-related activity.

**PART 6**

**Amount of components**

**25.** The amount of the work-related activity component is £24.00.

**26.** The amount of the support component is £29.00. ”.”.