

STATUTORY INSTRUMENTS

2008 No. 794

The Employment and Support Allowance Regulations 2008

PART 11 E+W+S

SUPPLEMENTARY PROVISIONS

CHAPTER 1 E+W+S

Miscellaneous

Waiting days E+W+S

144.—(1) A claimant is not entitled to an employment and support allowance in respect of [^{F1}7] days at the beginning of a period of limited capability for work.

(2) Paragraph (1) does not apply where—

(a) the claimant's entitlement to an employment and support allowance commences within 12 weeks of the claimant's entitlement to income support, [^{F2}incapacity benefit, severe disablement allowance,] state pension credit, a jobseeker's allowance, a carer's allowance [^{F3}, carer support payment][^{F4}, statutory sick pay or a maternity allowance] coming to an end;

(b) the claimant is terminally ill and has—

(i) made a claim expressly on the ground of being terminally ill; or

(ii) made an application for supersession or revision in accordance with the Social Security and Child Support (Decisions and Appeals) Regulations 1999 ^{F5} which contains an express statement of being terminally ill; or

(c) the claimant has been discharged from being a member of Her Majesty's forces and 3 or more days immediately before that discharge were days of sickness absence from duty, which are recorded by the Secretary of State for Defence^{F6}, or

(d) the claimant is the other member of a couple to whom regulation 4I(2) of the Social Security (Claims and Payments) Regulations 1987 applies and the former claimant was not entitled to an employment and support allowance in respect of [^{F7}7] days at the beginning of the period of limited capability for work which relates to the former claimant's entitlement][^{F8}; or]

[^{F8}(e) the claimant is entitled to an employment and support allowance by virtue of section 1B of the Act (further entitlement after time-limiting).]

Textual Amendments

- F1** Word in reg. 144(1) substituted (27.10.2014) by [The Social Security \(Jobseeker's Allowance and Employment and Support Allowance\) \(Waiting Days\) Amendment Regulations 2014 \(S.I. 2014/2309\)](#), regs. 1, **2(2)** (with reg. 4(2))

- F2** Words in reg. 144(2)(a) inserted (31.1.2011) by The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (S.I. 2010/1907), regs. 1(3), **25(2)** (with reg. 3)
- F3** Words in reg. 144(2)(a) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023 (S.I. 2023/1218), arts. 1(2), **19(4)**
- F4** Words in reg. 144(2)(a) substituted (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/2428), regs. 1(2), **9(1)(a)**
- F5** S.I. 1999/991.
- F6** Reg. 144(2)(d) and word added (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/2428), regs. 1(2), **9(1)(b)**
- F7** Word in reg. 144(2)(d) substituted (27.10.2014) by The Social Security (Jobseeker's Allowance and Employment and Support Allowance) (Waiting Days) Amendment Regulations 2014 (S.I. 2014/2309), regs. 1, **2(2)** (with reg. 4(2)(3))
- F8** Reg. 144(2)(e) and words added (1.5.2012) by The Employment and Support Allowance (Duration of Contributory Allowance) (Consequential Amendments) Regulations 2012 (S.I. 2012/913), regs. 1(2), **9(3)**

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Section 144.