
STATUTORY INSTRUMENTS

2008 No. 794

The Employment and Support Allowance Regulations 2008

PART 8

CONDITIONALITY

CHAPTER 3

Reduction of employment and support allowance

Reduction of employment and support allowance

63.—(1) Where the Secretary of State has determined that a claimant who was required to take part in—

- (a) a work-focused health-related assessment; or
- (b) a work-focused interview,

has failed to do so and has failed to show good cause for that failure in accordance with regulation 53 or 61, as the case may be (“a failure determination”), the amount of the employment and support allowance payable to the claimant is to be reduced in accordance with this regulation.

(2) Subject to paragraph (3), the amount of the reduction in relation to each failure determination is—

- (a) 50% of the amount of the work-related activity component as set out in Part 4 of Schedule 4 for the first 4 benefit weeks to which, by virtue of section 10(5) of the Social Security Act 1998(1) or regulations made under section 10(6) of that Act, the reduction applies; and
- (b) 100% of the amount of that component for each subsequent benefit week.

(3) In any benefit week, the amount of an employment and support allowance payable to a claimant is not, by virtue of this regulation, to be reduced—

- (a) below 10 pence;
- (b) in relation to more than—
 - (i) one failure determination relating to a work-focused health-related assessment; and
 - (ii) one failure determination relating to a work-focused interview; and
- (c) by more than 100% of the amount of the work-related activity component as set out in Part 4 of Schedule 4 in any circumstances.

(4) Where a claimant is entitled to both a contributory allowance and an income-related allowance, any reduction in the claimant’s allowance must first be applied to the part of that allowance treated as attributable to the claimant’s contributory allowance and only if there is any amount outstanding is it to be applied to the part of that allowance treated as attributable to the claimant’s income-related allowance.

(5) For the purposes of determining the amount of any income-related allowance payable, a claimant is to be treated as receiving the amount of any contributory allowance which would have been payable but for any reduction made in accordance with this regulation.