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STATUTORY INSTRUMENTS

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**2013 No. 379**

**The Employment and Support Allowance Regulations 2013**

**PART 4**

**Limited Capability for Work**

**Hospital patients**

**21.**—(1) A claimant is to be treated as having limited capability for work on any day on which that claimant is undergoing medical or other treatment as a patient in a hospital or similar institution, or which is a day of recovery from that treatment.

(2) The circumstances in which a claimant is to be regarded as undergoing treatment falling within paragraph (1) include where the claimant is attending a residential programme of rehabilitation for the treatment of drug or alcohol addiction.

(3) For the purposes of this regulation, a claimant is to be regarded as undergoing treatment as a patient in a hospital or similar institution only if that claimant has been advised by a health care professional to stay overnight or for a longer period following medical or other treatment.

(4) For the purposes of this regulation, “day of recovery” means a day on which a claimant is recovering from treatment as a patient in a hospital or similar institution as referred to in paragraph (1) and the Secretary of State is satisfied that the claimant should be treated as having limited capability for work on that day.