DMG Memo Vols 3/98 & 8/85

EMPLOYMENT AND SUPPORT ALLOWANCE, INCAPACITY BENEFIT & SEVERE DISABLEMENT ALLOWANCE: EXEMPT WORK

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introduction

1. This memo gives guidance on the Social Security (Exempt Work & Hardship Amounts) (Amendment) Regulations (Northern Ireland) 20171, which came into force on 3.4.17.

*1 SI 2017 No.50; SS(EW & HA)(Amdt) Regs (NI)*

2 The regulations

**1.** remove the 52 week limit on permitted work higher limit for Employment and Support Allowance, Incapacity Benefit and Severe Disablement Allowance claimants1.

1 SS (EW & HA)(Amdt) Regs(NI)17, reg 2 & 3; reg 5

EXEMPT WORK

3 The general rule is that a claimant who works is treated as

**1.** capable of work for Incapacity Benefit and Severe Disablement

Allowance1 **or**

**2.** not entitled to Employment and Support Allowance2, and therefore treated as not having limited capability for work for Employment and Support Allowance3.

See DMG 13850 et seq (Incapacity Benefit and Severe Disablement Allowance) and DMG 41122 et seq (Employment and Support Allowance) for detailed guidance. However, the general rule does not apply in specified circumstances, including where the claimant does exempt work4. DMG 13910 – 13926 and 41213 – 41253 give guidance on the conditions for permitted work higher limit, which is a category of exempt work.

**Note:** See also DMG 41176 for an exception to **2.** where a claimant entitled to Contribution-based Employment and Support Allowance is receiving certain treatments and the general rule does not apply5.

1 SS (IW)(GEN) Regs(NI) 95, reg 16(1); 2 ESA Regs, reg 40(1); 3 reg 44 (1); 4SS (IW)(Gen) Regs (NI) 95, reg 16 (3)(e) & 17; ESA Regs (NI) 08, reg 40(2)(f) & 45; 5 reg 26, 44(2) & 46

4 The conditions are that the claimant can

**1.** work for less than 16 hours a week **and**

**2.** earn no more than 16 times the national minimum wage a week **and**

**3.** work for a limited period of 52 weeks, known as the permitted work period1.

*1 SS (IW)(Gen) Regs (NI) 95, reg 17(3) & (9); ESA Regs (NI) 08, reg 45(4)(a), (4A) & (10)*

5 From 3.4.17

**1.** permitted work higher limit and permitted work (limited capability for work related activity) are combined into one type of permitted work, referred to as permitted work1 **and**

**2.** the permitted work period no longer applies2.

1 SS (EW & HA)(Amdt) Regs(NI) 17, reg 2(a) & 3(a); 2 reg 2(b) & (c) & 3(b) & (c)

6 Where a claimant is already serving a permitted work period which ends after 3.4.17, there is no restriction on the period for which they can undertake permitted work. The guidance at DMG 13920 – 13921 and 41253 is **cancelled** and should no longer be followed.

7 Where a claimant has completed a permitted work period, there is no requirement for a break in permitted work before the claimant can undertake permitted work again. The guidance at DMG 13922 and 41251 – 41252 is **cancelled** and should no longer be followed.

annotations

Please annotate the number of this memo (DMG Memo Vols 3/98 & 8/85) against the following DMG paragraphs:

13910 heading, 13920 heading, 41211 heading & 41251 heading

Contacts

If you have any queries about this memo, please contact

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