

Chapter K7: Effect of ESA and JSA sanctions on UC

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Chapter K7: Effect of ESA and JSA sanctions on UC

Introduction

K7001 This Chapter gives guidance on what sanctions apply where a claimant

1. is or was entitled to ESA or JSA **and**
2. had a sanction imposed on the award of ESA or JSA¹ **and**
3. becomes entitled to UC².

Note 1: In this Chapter references to ESA or JSA mean new style ESA or JSA³. See ADM Chapter M1 (Pathfinder Group – claims for UC) for guidance on the meaning of new style ESA and JSA.

Note 2: See ADM Chapters V8 and S6 for guidance on where a UC claimant who has had a sanction imposed becomes entitled to ESA or JSA.

*1 WR Act 07, s 11J; JS Act 95, s 6J & 6K; 2 WR Act 12, Sch 5, para 2 & 3; UC Regs, reg 112 & Sch 11;
3 UC Regs, reg 2; ESA Regs 13; JSA Regs 13; UC (TP) Regs, reg 2(1)*

K7002 See ADM Chapter M2 (Pathfinder Group – natural migration) for guidance on UC sanctions where a claimant entitled to

1. ESA(Cont) or (IR)¹ **or**
2. JSA(Cont) or (IB)²

under pre–2013 legislation becomes entitled to UC³.

1 ESA Regs 08; 2 JSA Regs 96; 3 UC (TP) Regs

Dual entitlement to UC and ESA/JSA

K7003 Where

1. the claimant is entitled to both UC **and**
 - 1.1 ESA¹ **or**
 - 1.2 JSA² **and**
2. a sanction is appropriate

the sanction will be applied against UC only.

1 ESA Regs 13, reg 42(3); 2 JSA Regs, reg 5(3)

Note: For guidance on sanctions in UC see ADM Chapters K1 – K9.

K7004 – K7009

Moving ESA and JSA sanctions to UC

K7010 Where a claimant

1. is or was entitled to ESA or JSA **and**
2. had a sanction imposed on the award of ESA or JSA¹ **and**
3. becomes entitled to UC

the ESA or JSA sanction is applied to the UC award².

Note: See ADM Chapter V7 for guidance on ESA sanctions, & Chapter S5 for guidance on JSA sanctions.

1 WR Act 07, s 11J; JS Act 95, s 6J & 6K; 2 UC Regs, Sch 11, para 1(1) & (2) and 2(1) & (2)

Period of sanction

K7011 The period of the sanction is the number of days which applied to the claimant under ESA¹ or JSA² rules excluding

1. any days which have resulted in a reduction of the amount of ESA or JSA **and**
2. if the ESA or JSA award has terminated, any days
 - 2.1 after the date that award was terminated **and**
 - 2.2 before the date on which the UC award begins.

The period is added to the UC total outstanding reduction period³.

Note: See ADM Chapter K1 (Sanctions – general principles) for the meaning of total outstanding reduction period.

1 ESA Regs 13, reg 52 & 53; 2 JSA Regs 13, reg 19, 20 & 21; 3 UC Regs, Sch 11, para 1(3) & 2(3)

Example 1

Tess is entitled to ESA including the WRAC. Her award terminates on 11.6.14 as she has had 365 days entitlement to ESA. At the time the award ended there was a low-level sanction including a 7 day fixed period reduction, imposed due to a failure to attend a skills assessment course on 21.5.14. The period of reduction began on 4.6.14, and the open period ends on 11.6.14, the date the ESA award ends. Tess also fails to attend an interview on 9.6.14 to check on her work preparation progress. Tess has not agreed to attend the interview, and the DM has not determined whether a reduction should be imposed for the failure, at the time the ESA award ends.

Tess claims UC on 11.6.14. The UC award is reduced for a period of 7 days, the fixed period low-level sanction for which no ESA days of reduction were made. No reduction of UC is made for the second failure.

Example 2

Nick is entitled to JSA, and the DM has determined that a medium-level sanction of 28 days should be imposed as Nick has not shown that he had taken all reasonable action to look for paid work. The reduction began on 17.4.14.

On 2.5.14 Nick is joined by his partner Lisa, and they claim UC as joint claimants from that date. Their UC award is reduced for 13 days, the balance of the total period of 28 days.

Example 3

Winston is entitled to JSA. His partner Pearl is in F/T employment. Winston refuses to undertake a MWA work placement with a retail company as part of his work preparation requirement. This is his second higher-level sanctionable failure in 3 months. The DM imposes a higher-level sanction of 182 days, which begins on 7.3.14. Winston's award of JSA ends on 29.4.14.

On 9.7.14 Winston and Pearl claim UC, after Pearl's employment contract ends. Winston's JSA award was reduced for 54 days, and there are 71 days between the end of the JSA award and the beginning of the UC award. A higher-level sanction period of the remaining 57 days is imposed on Winston and Pearl's award of UC.

K7012 – K7019

Amount of reduction

K7020 The amount of the reduction moved from ESA or JSA to UC is calculated for each assessment period in accordance with the UC rules¹. See ADM Chapter K9 for guidance on the amount of UC reductions, including the daily rate.

Note: See ADM Chapter K8 (When a reduction is to have effect) for guidance on the suspension of a reduction where a fraud penalty applies.

1 UC Regs, Sch 11, para 1(4) & 2(4); reg 110 & 111

Example 1

Manjula is entitled to JSA, and has a medium-level sanction of 91 days imposed from 16.7.14 when she refuses to be available for work for less than a specified amount of pay. The daily reduction rate is £10.20 [prescribed amount of £71.70 x 52 ÷ 365 rounded down to the nearest 10 pence].

Manjula joins her partner Prakash, who is entitled to UC, on 22.9.14. The remaining 23 days of the JSA reduction are applied to the UC award. The daily reduction rate is £8 [(standard couple allowance of £489.06 ÷ 2) x 12 ÷ 365 rounded down to the nearest 10 pence].

Example 2

Solomon is entitled to ESA, and has a low-level sanction imposed after he fails to take part in a WFI on 9.10.14. He phones up on 14.10.14 and agrees to attend a WFI on 20.10.14. The reduction, which includes a 5 day reduction for the period 9–13.10.14, and a 7 day fixed period, begins on 22.10.14, and is due to end on 2.11.14. The daily reduction rate is £10.20 [prescribed amount of £71.70 x 52 ÷ 365 rounded down to the nearest 10 pence].

On 27.10.14 Solomon moves out of his parents' house into rented accommodation, and claims UC. The remaining 7 days of the ESA sanction is applied to the UC award. The daily reduction rate is £10.20 [standard single person's allowance of £311.55 x 12 ÷ 365 rounded down to the nearest 10 pence].

K7021 – K7029

Escalation

K7030 Where

1. an ESA or JSA sanction becomes a UC sanction as in K7010 et seq **and**
2. there is a later sanctionable failure **and**
3. the ESA or JSA sanction is equivalent to a UC sanction with the same reduction period

the ESA or JSA sanction is treated as a UC sanction for the purposes of calculating the reduction period¹.

Note: See ADM Chapters K3 (Higher-level sanctions), K4 (Medium-level sanctions), K5 (Low-level sanctions) and K6 (Lowest-level sanctions) for guidance on UC sanctionable failures and reduction periods. See ADM Chapters V8 and S5 for guidance on ESA and JSA sanctions.

1 WR Act 12, s 26 & 27; UC Regs, Sch 11, para 3

Example 1

Ruth is entitled to JSA. A higher-level sanction of 91 days is imposed in June 2013 when she failed for no good reason to apply for a job as required by her adviser as part of a work search requirement.

Ruth claims UC in October 2013 when her award of JSA ends. Ruth is required to take part in the MWA scheme as part of a work preparation requirement, but refuses to join the scheme. The DM determines that Ruth had no good reason for the failure, and imposes a reduction. As this sanctionable failure is at the same level as the JSA higher level failure in June and is in the 364 days immediately before the June failure, then the reduction period for the current sanctionable failure escalates to 182 days

Example 2

Tom is entitled to ESA, and falls in the WFI and work preparation requirement group. On 7.8.14 he failed to attend an initial WFI, and had no good reason for the failure. He phones to rearrange the WFI appointment on 12.8.14. A low-level reduction period of 11 days (5 days for the period 7–11.8.14 and a 7 day fixed period) is imposed for the sanctionable failure.

Tom is referred to the Work Programme. He is required to produce his CV by the time of his next interview with the advisor on 19.11.14, but when he attends says he forgot to prepare the CV. The DM imposes a further low-level reduction including a 14 day fixed period, as this is within 365 days of a previous low-level sanctionable failure.

When his ESA terminates after 365 days on 4.5.15, Tom claims UC. On 23.7.15 he fails to attend a follow-up interview with the advisor to check on his progress as part of his work preparation requirement. The DM determines that this is a low-level sanctionable failure, and imposes a reduction period including a 28 day fixed period, as this is within 365 days of a previous ESA low-level sanctionable failure for which a 14 day reduction period had been imposed.

K7031 – K7999

The content of the examples in this document (including use of imagery) is for illustrative purposes only