

Chapter V8: ESA transition

Contents

Introduction	V8001
Definitions	
Meaning of ESA	
New style ESA.....	V8015
Old style ESA	V8016
Meaning of gateway conditions	V8017
Meaning of new claimant partner	V8018
When the provisions for new style ESA apply	
Introduction.....	V8020
Claims for new style ESA	V8021
Claims for UC or ESA	V8040
Claim for UC – claimant gives incorrect information	V8050
Couple treated as making UC claim.....	V8060
Former joint claimants – UC claim required.....	V8063
UC claim not required – earned income (Live Service only)	V8065
UC claim not required – former single or joint claimants	V8066
Claimant does not live in a relevant district or meet the gateway conditions	V8067
Claim for UC not made: effect on claims for ESA	V8080
When the provisions for new style ESA no longer apply	V8100
Claimant commitment and responsibilities	
New style ESA awards	V8110
Old style ESA awards	V8115
Reassessment of IB and SDA	
Introduction.....	V8120
Claims for and awards of UC	V8123
Old style ESA provisions apply again	V8124

Transition from old style ESA

Introduction.....	V8125
Modifications.....	V8129
Definition – limited capability for work	V8130
Assessment phase – previous claimants.....	V8131
Support component payable from first day of entitlement.....	V8132
Condition relating to youth.....	V8133
Determination of limited capability for work.....	V8134
Treated as having limited capability for work	V8135
Determination of LCWRA.....	V8136
Exempt work	V8137
Waiting days.....	V8138
Appeal against determination of no limited capability for work	V8139
Temporary absence	V8140
Temporary absence – receiving medical treatment	V8141
Misconduct	V8142
Imprisonment or detention in legal custody.....	V8143
Limitation to no more than 365 days	V8144
Assessment phase.....	V8145

Transition from new style ESA

Introduction.....	V8160
Modifications.....	V8163
Definition – limited capability for work	V8164
Assessment phase – previous claimants.....	V8165
Support component payable from first day of entitlement.....	V8166
Condition relating to youth.....	V8167
Determination of limited capability for work.....	V8168
Treated as having limited capability for work	V8169
Determination of LCWRA.....	V8170
Exempt work	V8171
Waiting days.....	V8172
Appeal against determination of no limited capability for work	V8173

Temporary absence	V8174
Temporary absence – receiving medical treatment	V8175
Misconduct	V8176
Imprisonment or detention in legal custody.....	V8178
Housing costs.....	V8179
Limitation to no more than 365 days	V8180
Assessment phase.....	V8181

Sanctions

Introduction.....	V8200
Meaning of relevant failure	V8201
New award.....	V8210
Reduction period	V8212
Continuing award.....	V8220
Reduction period	V8222
Escalation of sanctions.....	V8230
Termination of new style ESA sanctions	V8235
Appendix: WR Act 12 Commencement etc.....	Orders

Chapter V8: ESA transition

Introduction

V8001 This Chapter gives guidance on

1. when the provisions for claiming new style ESA apply (see V8020 et seq) **and**
2. what happens when the provisions for claiming new style ESA no longer apply (see V8100 et seq) **and**
3. reassessment of IB and SDA for new style ESA (see V8120 et seq) **and**
4. transition from old style ESA (see V8125 et seq) **and**
5. transition from new style ESA (see V8160 et seq) **and**
6. sanctions (see V8200 et seq).

V8002 The conditions for claiming new style ESA differ depending on where the claimant lives, and whether it is a Live Service or digital service (known as Full Service) area. See ADM Chapter M3 (Claims for UC – Gateway conditions) for full details of the conditions for claiming UC in the Live Service area, including guidance on the gateway conditions, and ADM Chapter M5 (Claims for UC – Digital service area) for details on claims in the Full Service area, where the gateway conditions do not apply. The Appendix to each Chapter gives details of the postcode districts and part-districts for each area.

Note: Where the conditions for claiming ESA differ depending on whether the claimant lives in a Live Service or Full Service area, this is noted in the guidance.

V8003 The Live Service area is where claims can be made by

1. single and joint claimants who live in the relevant districts numbered up to and including the No. 27 relevant districts **and**
2. single claimants who live in the No. 29 - 49 and 53 - 80 relevant districts.

Note: But see V8004 for information about postcode districts or part-districts moving to the Full Service area.

V8004 The Full Service area is the No. 28 and 50 - 52 relevant districts. Starting from 27.1.16, a phased conversion of postcode districts or part-districts in the Live Service area began, converting them to digital service areas referred to as the designated postcodes where the gateway conditions no longer apply. See the Appendix to ADM Chapter M5 (Claims for UC – Digital service area) for details of the designated postcodes.

V8005 Where this Chapter refers to whether a claimant lives in or moves out of a relevant district, DMs should be aware that **all** postcodes in GB are now included in the

relevant districts numbered up to the No. 80 relevant districts, including the designated postcodes. However, a claimant may move from one relevant district to another

1. within the Live Service where different gateway conditions apply **or**
2. where the gateway conditions do not apply (Full Service).

V8006 - V8014

Definitions

Meaning of ESA

New style ESA

V8015 New style ESA is ESA as amended to remove ESA(IR), based on NI contributions only¹.

1 WR Act 07, Part 1; WR Act 12, Sch 3 & Sch 14, Part 1; WR Act 12 (Commencement No. 9 etc.) Order, art 2(1), 4(1) & 7(1)

Old style ESA

V8016 Old style ESA is ESA as it applies before the amendments referred to in V8015. It includes ESA(Cont) and ESA(IR)¹ (see DMG Volumes 8 & 9 for detailed guidance).

1 WR Act 07, Part 1; WR Act 12 (Commencement No. 9 etc.) Order, art 2(1)

Meaning of gateway conditions

V8017 Claimants in the Live Service area must

1. live in one of the relevant districts listed in V8003 **and**
2. satisfy the gateway conditions

to be eligible to claim UC and new style ESA¹. The gateway conditions differ depending on the date of the claim and where the claimant lives. See ADM Chapter M3 (Claims for UC – Gateway conditions) for further details.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 3(3), 4(2) & Sch 5 [see list in Appendix for other Orders]

Meaning of new claimant partner

V8018 Where

1. a person is entitled to UC as a single person **and**
2. the award terminates when they become a member of a couple **and**

3. the other member of the couple was not entitled to UC as a single claimant immediately before the formation of the couple **and**
4. the couple is treated as having made a claim for UC¹ **and**
5. the DM is satisfied that the claimants meet the UC basic conditions of entitlement (other than the acceptance of a claimant commitment)²

the other member of the couple is known as a new claimant partner³.

Note: See ADM Chapter A2 (Claims) for detailed guidance on claims.

1 UC, PIP, JSA & ESA (C&P) Regs, reg 9(8); 2 WR Act 12, s 4(1)(a) – (d); 3 UC (TP) Reg, reg 2(1) & 7(1)

V8019

When the provisions for new style ESA apply

Introduction

V8020 V8021 et seq gives guidance on when the provisions for claiming new style ESA apply. However, the new style ESA provisions apply only for as long as the award continues. On any subsequent claim, DMs will have to consider again whether the new style or old style provisions apply. Also, DMs should note that the new style ESA provisions may no longer apply if the claimant's circumstances change (see V8100 et seq).

Claims for new style ESA

V8021 The new style ESA provisions apply from

1. the first day of the period in respect of which the claim is made or treated as made¹ (for UC, only claims treated as made as in V8060 - V8064) **or**
2. the day after the day a new claimant partner and their former partner stopped being a couple² **or**
3. the day on which the person becomes entitled to UC³ as in V8065 (Live Service only) or V8066.

Note: When a UC claim is made in the Live Service area, one of the gateway conditions is that a person does not have LCW⁴. Therefore, in practice, in the Live Service area the new style ESA provisions will apply only where a person receiving UC reports a change of circumstances that they have fallen ill and claims ESA based on their contributions record.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(3)(a); 2 art 4(4) & (5); 3 art 4(3)(b) [see list in Appendix for other Orders]; 4 Sch 5, para 2

V8022 Where V8021 1. applies and the time for making a claim is extended, the first day of the period for which the claim is made is the first day of the extended period¹.

Note: See DMG Chapter 02 and ADM Chapter A2 for guidance on extending the time for claiming.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 5(8);
UC, PIP, JSA & ESA (C&P) Regs, reg 26(2); SS (C&P) Regs, reg 19 & Sch 4*

V8023 For the purposes of when the new style ESA provisions apply, a claim for¹ or an award of² UC includes an award of ESA made following

1. a conversion decision where a conversion notice³ is issued
 - 1.1 to a single claimant **or**
 - 1.2 where there are joint claimants, either of them during the period in V8024⁴ **or**
2. where 1. does not apply, a conversion decision made during the period in V8024 in relation to an award of IB or SDA to which
 - 2.1 a single claimant **or**
 - 2.2 where there are joint claimants, either of them is entitled⁵ **or**
3. where 1. and 2. do not apply, the effective date⁶ of a conversion decision in relation to an award of IB or SDA in the period in V8024⁷.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(2)(a) – (d); 2 art 4(2)(e) & (f)
[see list in Appendix for other Orders]; 3 ESA (TP, HB & CTB) (EA) (No. 2) Regs, reg 4;
4 WR Act 12 (Commencement No. 9 etc.) Order, art 4(6)(a); 5 art 4(6)(b);
6 ESA (TP, HB & CTB) (EA) (No. 2) Regs, reg 2(1) & 13;
7 WR Act 12 (Commencement No. 9 etc.) Order, art 4(6)(c)*

V8024 For the purposes of V8023, the period, known as the designated period, is any period

1. when a decision has not yet been made on a claim for UC¹ **or**
2. when a decision has not yet been made on joint claimants' entitlement to UC on a claim that is treated as made² **or**
3. after the period in 1. or 2. when single claimants or joint claimants are entitled to UC³ **or**
4. when single claimants or joint claimants are entitled to an award of UC⁴.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(2)(a), (b)(i) & (d) & (7)(a); 2 art 4(2)(c) & (7)(b);
3 art 4(7)(c); 4 art 4(2)(e) & (f) & 7(d); 5 art 4(2)(a), (b)(i) & (ii) & (d) & (7)(a)
[see list in Appendix for other Orders]*

V8025 - V8039

Claims for UC or ESA

- V8040 The new style ESA provisions apply¹ from the first day of the period of the claim where a person (including either of UC joint claimants)
1. makes a claim for UC or makes, or is treated as making, a claim for ESA for a period on or after a date detailed in the Appendix to
 - 1.1 ADM Chapter M3 (Claims for UC – Gateway conditions) for the Live Service area **or**
 - 1.2 ADM Chapter M5 (Claims for UC – Digital service area) for the Full Service area **and**
 2. on the day on which the claim is made or treated as made
 - 2.1 lives in one of the relevant districts (including the designated postcodes in the Full Service area) **and**
 - 2.2 for Live Service area only, meets the gateway conditions.

When determining whether a person meets the gateway conditions in the Live Service area, references to a claim for UC also includes a claim for ESA².

Note 1: See V8017 for the meaning of the gateway conditions.

Note 2: See V8021 for details of when, in practice, the new style ESA provisions will apply.

*1 WR Act (Commencement No 9 etc.) Order, art 4(2)(a) [see list in Appendix for other Orders];
2 art 5(1); UC (TP) Regs, Part 2, Chapter 2*

- V8041 For the purposes of V8040
1. the guidance in DMG Chapter 02 applies¹ for deciding
 - 1.1 whether a claim for ESA is made or treated as made **and**
 - 1.2 the day on which the claim is made or treated as made² **and**
 2. the guidance in ADM Chapter A2 (Claims) applies³ for deciding
 - 2.1 whether a claim for UC is made **and**
 - 2.2 the day on which the claim is made⁴.

*1 SS (C&P) Regs; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 5(5);
3 UC, PIP, JSA & ESA (C&P) Regs; 4 WR Act 12 (Commencement No. 9 etc.) Order, art 2(2)*

V8042 - V8049

Claim for UC – claimant gives incorrect information

- V8050 The new style ESA provisions apply¹ from the first day of the period in respect of which the UC claim is made where

1. a person (including either or both UC joint claimants) makes a claim for UC for a period on or after a date detailed in the Appendix to
 - 1.1 ADM Chapter M3 (Claims for UC – Gateway conditions) for the Live Service area **or**
 - 1.2 ADM Chapter M5 (Claims for UC – Digital service area) for the Full Service area **and**
2. the person
 - 2.1 did not
 - 2.1.a live in one of the relevant districts (including the designated postcodes in the Full Service area) **or**
 - 2.1.b for the Live Service area only, meet the gateway conditions on the day on which the claim is made **and**
 - 2.2 gave incorrect information about
 - 2.2.a living in one of the relevant districts (including the designated postcodes in the Full Service area) **or**
 - 2.2.b for the Live Service area only, meeting the gateway conditions
- and**
3. after
 - 3.1 a decision has been made that the person is entitled to UC **and**
 - 3.2 one or more payments have been made

the DM discovers that the person gave incorrect information (and therefore the UC award continues because a payment has already been made).

Note: See V8017 for the meaning of the gateway conditions.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(2)(b) [see list in Appendix for other Orders]

V8051 For the purposes of V8050 the guidance in ADM Chapter A2 (Claims) applies¹ for deciding

1. whether a claim for UC is made **and**
2. the day on which the claim is made².

1 UC, PIP, JSA & ESA (C&P) Regs; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 5(1)

V8052 - V8059

Couple treated as making UC claim

V8060 The new style ESA provisions apply from the first day of the period in respect of which the UC claim is treated as made, where¹

1. a UC claimant forms a couple and their UC award is ended **and**
2. the other member of the couple was not entitled to UC **and**
3. they are joint claimants **and**
4. the member of the couple who was not entitled to UC is not entitled to SPC².

Any old style ESA(Cont) becomes new style ESA and any old style ESA(IR) ends from the start of the first assessment period appropriate to the joint claim.

Note: In the Full Service area, this applies whether the UC claimant in 1. was a single claimant or a member of a different couple.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(1) & (2)(c) [see list in Appendix for other Orders]; UC, PIP, JSA & ESA (C&P) Regs, reg 9(8); 2 WR Act 12 (Commencement No. 9 etc.) Order, art 3(7)

V8061 Where

1. a UC claim is treated as made by a couple as in V8060 **and**
2. the new claimant partner was entitled to old style ESA as part of a different couple during part of the period for which the UC claim is treated as made

the new style ESA provisions apply from the day after the day the new claimant partner and their former partner stopped being a couple¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(4) & (5) [see list in Appendix for other Orders]

V8062 For the purposes of V8060 the guidance in ADM Chapter A2 (Claims) applies¹ for deciding

1. whether a claim for UC is treated as made **and**
2. the day on which the claim is treated as made².

1 UC, PIP, JSA & ESA (C&P) Regs; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 5(1)

Former joint claimants – UC claim required

V8063 The new style ESA provisions apply from the first day of the period in respect of which the UC claim was made, or treated as made, where¹

1. an award of UC to joint claimants ends because they separate **and**
2. the claimant who is not exempt from the requirement to make a claim makes a claim, or is treated as making a claim, for UC (whether or not jointly with another person) within one month, starting from the date they notify the Secretary of State that they ceased to be a couple **and**
3. neither the claimant who is not exempt from the requirement to make a claim nor their partner (if any) is entitled to SPC².

Note: In the Full Service area, former UC joint claimants who separate are not required to claim UC in order to be awarded UC either as a single person or jointly with another person already entitled to UC.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(1) & (2)(d) [see list in Appendix for other Orders]; UC, PIP, JSA & ESA (C&P) Regs, reg 9(6); 2 WR Act 12 (Commencement No. 9 etc.) Order, art 3(8)

V8064 For the purposes of V8063 the guidance in ADM Chapter A2 (Claims) applies¹ for deciding

1. whether a claim for UC is made or treated as made **and**
2. the day on which the claim is made or treated as made².

1 UC, PIP, JSA & ESA (C&P) Regs; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 5(1) [see list in Appendix for other Orders]

UC claim not required – earned income (Live Service only)

V8065 The new style ESA provisions apply from the day on which the person

1. becomes entitled to UC where¹
 - 1.1 they are no longer entitled to UC solely due to the level of earned income, but become entitled again within six months **or**
 - 1.2 on a claim for UC, they are not entitled to UC solely due to the level of earned income, but become entitled within six months **and**
2. is not entitled to SPC².

Note: See ADM Chapter M4 (Claims for UC – Gateway conditions) for full guidance on when a UC claim is not required in these circumstances.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(1) & (2)(e) [see list in Appendix for other Orders]; UC, PIP, JSA & ESA (C&P) Regs, reg 6(1) & (2); 2 WR Act 12 (Commencement No. 9 etc.) Order, art 3(9)

UC claim not required – former single or joint claimants

V8066 The new style ESA provisions apply from the day on which the person

1. becomes entitled to UC where¹
 - 1.1 a UC joint claim couple separates and the person
 - 1.1.a does not notify the change of circumstances **or**
 - 1.1.b notifies it after the other member of the couple has notified the change² **or**
 - 1.2 awards of UC to two single claimants are terminated when they form a joint claim couple³ **or**
 - 1.3 a joint award has ended because of the death of the other member of the couple⁴ **and**

2. is not entitled to SPC⁵.

Note: In the Full Service area, former UC joint claimants who separate are not required to claim UC in order to be awarded UC either as a single person or jointly with another person already entitled to UC.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(1) & (2)(f) [see list in Appendix for other Orders];

2 UC, PIP, JSA & ESA (C&P) Regs, reg 9(6); 3 reg 9 (7); 4 reg 9(10);

5 WR Act 12 (Commencement No. 9 etc.) Order, art 3(9)

Claimant does not live in a relevant district or meet the gateway conditions

V8067 The new style ESA provisions apply from the first day of the period in respect of which the UC claim was made, or treated as made, other than as in V8040 where

1. a claimant does not

1.1 live in a relevant district **or**

1.2 meet the gateway conditions in Live Service areas **and**

2. a claim for new style ESA is made in the circumstances of V8068¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(1) & (2)(g) [see list in Appendix for other Orders]

V8068 For the purposes of V8067 2., the circumstances are that a claim for new style ESA is made or treated as made¹

1. during the relevant period by

1.1 a UC single claimant **or**

1.2 either of joint UC claimants

where their UC claim has been made, or treated as made, as in V8021 - V8064 **or**

2. during the relevant period by

2.1 a UC single claimant **or**

2.2 either of joint UC claimants

who have been awarded UC without a claim being made as in V8065 (Live Service only) or V8066 above **or**

3. by a person who can make a claim for UC as in V8063 but has not done so **or**

4. by a person who may be entitled to a UC award as in V8065 (Live Service only) or V8066 but there is no decision as to the person's entitlement.

Note: See V8069 for guidance on the meaning of the relevant period.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 4(2)(g) [see list in Appendix for other Orders]

V8069 For the purposes of V8068 1. and 2., the relevant period¹ is

1. where V8021 - V8064 apply, any

- 1.1 UC claim period **and**
- 1.2 subsequent period in respect of which claimants have a UC award **or**
- 2. where V8065 (Live Service only) or V8066 apply, any period when claimants have a UC award.

Note: See V8070 for guidance on the UC claim period.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 5(3) [see list in Appendix for other Orders]

V8070 For the purposes of V8069 1.1, a UC claim period¹ is a period when

- 1. a claim for UC² has been made but no decision has been made on it **or**
- 2. a claim for UC³ has been treated as made but no decision has been made on it **or**
- 3. a decision has been made that there is no entitlement to UC **and**
 - 3.1 the DM is considering a revision⁴ of that decision
 - 3.1.a because an application for a revision has been made **or**
 - 3.1.b on their own initiative **or**
 - 3.2 an appeal has been made and it has not been finally determined.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 5(4) [see list in Appendix for other Orders];

2 art 4(2)(a), (b)(i) & (ii) & (d); 3 art 4(2)(c); 4 SS Act 98, s 9

V8071 When deciding whether a claim is made in accordance with V8067 in the relevant period, it does not matter if the claim is treated as made prior to that period¹. However, the new style ESA provisions do **not** apply where the claimant

- 1. makes a defective claim **or**
- 2. gives notification of an intention to claim

prior to the relevant period and completes the claim during that period².

Note: See V8069 for guidance on the meaning of the relevant period.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 5(6); SS (C&P) Regs;

2 WR Act 12 (Commencement No. 9 etc.) Order, art 5(7);

SS (C&P) Regs, reg 6(1F)(b) & (c), (4ZA) – (4ZD) & (4A)(a)(i) & (b)

V8072 - V8079

Claim for UC not made: effect on claims for ESA

V8080 Unless V8081 applies, where

- 1. a claimant
 - 1.1 makes a claim for new style ESA **and**
 - 1.2 lives in one of the relevant districts **and**

- 1.3 meets the gateway conditions (in the Live Service area only) **and**
2. the Secretary of State has determined that they would not be able to claim UC¹

the claim is treated as a claim for old style ESA².

1 UC (TP) Regs 14, reg 4(1); 2 WR Act 12 (Commencement No. 9 etc.) Order, art 5A(1) & 4(2)(a)

V8081 The exception to V8080 is where the claim for new style ESA is made or treated as made

1. during the relevant period as in V8069 where the ESA claimant has made, or is treated as having made, a claim for UC¹ **or**
2. during the relevant period as in V8069 1. where
 - 2.1 the ESA claimant has made a claim for UC² **and**
 - 2.2 V8040 - V8041 or V8050 apply³ **or**
3. at a time when the ESA claimant may be entitled to an award of UC without making a claim but a decision on the claimant's entitlement has not been made⁴.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 5A(2)(a); 2 Commencement Orders;
3 WR Act 12 (Commencement No. 9 etc.) Order, art 5A(2)(b), 4 art 5A(2)(c)*

V8082 For the purposes of V8080 - V8081 the guidance in DMG Chapter 02 applies¹ for deciding

1. whether a claim for ESA is made or treated as made **and**
2. the day on which the claim is made or treated as made².

1 SS (C&P) Regs; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 5A(3)

V8083 - V8099

When the provisions for new style ESA no longer apply

V8100 Where

1. a person has or had a new style ESA award¹ **and**
2. for any period of the new style ESA award the person²
 - 2.1 makes a claim, or is treated as making a claim, for UC **or**
 - 2.2 applies for a supersession of the decision relating to the new style award on the grounds of a relevant change of circumstances that would have related to ESA(IR) **and**
3. the person would have been entitled to ESA(IR)³ **and**

4. the person does not have an award of UC for the period for which the application for supersession is made⁴ **and**
5. on the day on which the UC claim is made or the application for supersession of the new style ESA award is received
 - 5.1 a claim for UC could not be made or treated as made (see V8040, V8050, V8060, V8063 or V8065 - V8066)⁵ **or**
 - 5.2 a claim for UC could be made, but the Secretary of State has determined that a claim may not be made⁶

the new style ESA provisions no longer apply from the first day of the period of the claim for UC or application for supersession of ESA⁷. This means that, unless they are awarded ESA(IR) following supersession, the person will need to claim an existing benefit instead. See ADM Chapter M3 for the meaning of existing benefit.

Note: See ADM Chapter M3 (Claims for UC – Gateway conditions) and M5 (Claims for UC – Digital service area) for detailed guidance on when UC claims can be made or treated as made, and when a claim may not be made.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 6(1)(a); 2 art 6(1)(b); 3 art 6(1)(c); 4 art 6(1)(d); 5 art 6(1)(e)(i); 6 art 6(1)(e)(ii); UC (TP) Regs, reg 4; 7 WR Act 12 (Commencement No. 9 etc.) Order, art 6(2)

V8101 For the purposes of V8100

1. the period in respect of which the application for supersession is made begins with the day from which the superseding decision takes effect¹
2. where the time for making a claim for UC is extended² the first day of the period is the first day of the extended period³.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 6(4); SS Act 98, s 10(5); UC, PIP, JSA & ESA (D&A) Regs, reg 35 & Sch 1; 2 UC, PIP, JSA & ESA (C&P) Regs, reg 26(2); 3 WR Act 12 (Commencement No. 9 etc.) Order, art 6(5)

V8102 For the purposes of V8100 the guidance in ADM Chapter A2 (Claims) applies¹ for deciding

1. whether a claim for UC is made or treated as made **and**
2. the day on which the claim is made or treated as made².

1 UC, PIP, JSA & ESA (C&P) Regs; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 6(3)(a)

V8103 - V8109

Claimant commitment and responsibilities

New style ESA awards

V8110 Where

1. the new style ESA provisions apply as in V8020 et seq **and**

2. the claimant is entitled to an award of new style ESA

the requirements at V8111 - V8112 apply from the date from which 1. applies¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 7(1)

V8111 In order to be entitled to ESA, the claimant must accept a claimant commitment¹.

Note: See ADM Chapter U3 for detailed guidance on the claimant commitment.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 7(1)(c); WR Act 12, s 54(1) & (2) & 57(1) & (2);
WR Act 07, s 1(3)(aa) & 11A*

V8112 The claimant must also comply with the work-related requirements imposed by the Secretary of State, depending on which work-related requirements group the claimant falls into¹. The claimant may be subject to

1. a work-focused interview requirement² **or**
2. a work-focused interview and work preparation requirement³ **or**
3. no work-related requirements⁴.

Note: See ADM Chapter U4 for detailed guidance on work-related requirements groups, and Chapter U5 for guidance on work-related requirements.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 7(1)(d); WR Act 12, s 57(1), (2), (4), (5) & (9);
WR Act 07, s 11; 2 s 11B & 11E; 3 11B, 11C & 11F; 4 s 11D*

V8113 - V8114

Old style ESA awards

V8115 Where

1. the provisions for new style ESA no longer apply as in V8100 **and**
2. the claimant is entitled to an award of old style ESA instead

the conditions in V8111 - V8112 no longer apply¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 7(3)

V8116 A claimant to whom V8115 applies may be subject to a requirement to take part in a WFI, and if so, to undertake WRA, as a condition of continuing to be entitled to old style ESA¹. See DMG Chapter 53 for detailed guidance.

1 WR Act 07, s 12 & 13

V8117 - V8119

Reassessment of IB and SDA

Introduction

V8120 From 11.10.10, the Secretary of State began to make decisions on whether the awards of claimants who, on or after that date, have an existing award of IB, SDA or IS, qualify for conversion to ESA. The process of conversion is known as IB reassessment. V8125 et seq gives guidance on the effect of reassessment of IB and SDA on new style ESA.

Note: See DMG Chapter 45 for detailed guidance on IB reassessment.

V8121 Where V8123 applies, the normal rules for conversion are modified¹ to

1. remove all references to ESA(IR) and IS **and**
2. replaces all references to old style ESA rules with references to new style ESA².

Note: Where an award of UC is made to a claimant entitled to IS on the grounds of disability, the award of IS is terminated, and the claimant is referred for the WCA under UC rules³. See ADM Chapter M4 (Effects of transition to UC – Gateway conditions) and M6 (Effects of transition to UC – Digital Service area) for further details.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 9(1) & Sch 4; ESA (TP, HB & CTB) (EA) (No. 2) Regs; 2 ESA Regs 08; ESA Regs 13; 3 UC (TP) Regs, reg 22

V8122 The modifications include provisions which allow awards of IB or SDA to be

1. converted to an award of new style ESA where the existing award qualifies for conversion¹ **and**
2. terminated where the existing award does not qualify for conversion² **and**
3. reinstated where the claimant is found to have good cause for failure to return the questionnaire or to attend for or submit to medical examination².

1 WR Act 12 (Commencement No. 9 etc.) Order, Sch 4, para 13; ESA (TP, HB & CTB) (EA) (No. 2) Regs, reg 14; 2 WR Act 12 (Commencement No. 9 etc.) Order, Sch 4, para 14; ESA (TP, HB & CTB) (EA) (No. 2) Regs, reg 15

Claims for and awards of UC

V8123 Unless V8124 applies, from

1. the first day of the period of the claim made or treated as made¹ as in V8040 - V8064 **or**
2. the day on which the person becomes entitled to UC² as in V8065 (Live Service only) or V8066

the normal rules for conversion to ESA³ apply as modified in V8121 – V8122⁴.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 9(1) & 4(2)(a) – (d) & (g); 2 art 9(1) & 4(2)(e) – (f);
3 ESA (TP, HB & CTB) (EA) (No. 2) Regs; 4 WR Act 12 (Commencement No. 9 etc.) Order, Sch 4*

Old style ESA provisions apply again

V8124 Where V8101 applies so that the old style ESA provisions apply again¹, the normal rules for conversion to ESA² apply without the modifications in V8121 – V8122³.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 9(2) & 6(2); 2 ESA (TP, HB & CTB) (EA) (No. 2) Regs; 3 WR Act 12 (Commencement No. 9 etc.) Order, Sch 4

Transition from old style ESA

Introduction

V8125 Where

1. a claimant makes, or is treated as making, a claim for new style ESA¹ **and**
2. V8126 is satisfied

the new style ESA provisions² are modified as in V8128 et seq.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(1)(a); 2 ESA Regs 13

V8126 V8125 applies where

1. the claimant
 - 1.1 had previously made **or**
 - 1.2 was treated as having madea claim for old style ESA¹ **or**
2. a conversion notice² was issued in respect of old style ESA³ **or**
3. the claimant previously had a new style ESA award but the old style ESA provisions applied again as in V8100⁴.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(1A)(a); 2 ESA (TP, HB & CTB) (EA) (No. 2) Regs, reg 4;
3 WR Act 12 (Commencement No. 9 etc.) Order, art 10(1A)(b); 4 art 10(1A)(c)*

V8127 V8129 et seq also applies where a claimant has an award of old style ESA(Cont) immediately before a UC

1. claim
 - 1.1 is made as in V8040 **or**
 - 1.2 is made and the claimant gives incorrect information as in V8050 **or**
 - 1.3 is treated as made by a couple in accordance with V8060 **or**
 - 1.4 is required from former joint claimants in accordance with V8063 **or**

2. award is made where a claim is not required in accordance with V8065 (Live Service only) or V8066¹

and the old style ESA award continues as a new style ESA award.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(1)(b)

V8128

Modifications

- V8129 Where V8125 or V8127 apply the new style ESA provisions¹ are modified in accordance with V8130 - V8145.

1 ESA Regs 13

Definition – limited capability for work

- V8130 The modifications mean that the definition of period of LCW includes a period (unless it is outside the prescribed time for claiming) throughout which the claimant has, or is treated as having, LCW for old style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(a); ESA Regs 13, regs 2 & 3; ESA Regs 08; UC, PIP, JSA & ESA (C&P) Regs, reg 28; SS (C&P) Regs, reg 19 & Sch 4

Assessment phase – previous claimants

- V8131 The modifications mean that, where the old style and new style awards link, then, in calculating the end of the assessment phase, the days of entitlement to old style ESA in the linked award are included in that calculation¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(b); ESA Regs 13, reg 6(2)(b)(v) & (c)(iii) & 26; ESA Regs 08, reg 30

Support component payable from first day of entitlement

- V8132 The modifications mean that, where the old style and new style awards link, then, in determining whether the support component is payable from the first day of entitlement, any “earlier period of LCW” in respect of which the claimant was entitled to ESA includes the period of entitlement to old style ESA¹.

Note: From 3.4.17 the WRAC is no longer included in an award of ESA for claims made on or after that date. See ADM Chapter V6 (ESA: Assessment phase and components) for further details, including where transitional provisions apply.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(c); ESA Regs 13, reg 7; ESA Regs, reg 30

Condition relating to youth

- V8133 The modifications mean that the conditions relating to youth include entitlement to old style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(d); ESA Regs 13, reg 11

Determination of limited capability for work

- V8134 The modifications mean that a determination of LCW can include
1. a determination of LCW for old style ESA¹ **and**
 2. being treated as having LCW for old style ESA² where a person
 - 2.1 satisfies certain conditions³ **or**
 - 2.2 is a hospital in-patient⁴ **or**
 - 2.3 is receiving certain regular treatments⁵ **or**
 - 2.4 has exceptional circumstances⁶.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(e)(i); ESA Regs 13, regs 15(7)(a); ESA Regs 08, Part 5; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(e)(ii); ESA Regs 13, regs 15(7)(b); 3 ESA Regs 08, reg 20; 4 reg 25; 5 reg 26; 6 reg 29

Treated as having limited capability for work

- V8135 The modifications mean that for the purposes of whether a claimant can be treated as having LCW until a determination of LCW has been made following a determination that the claimant is treated as not having LCW because they failed without good cause to
1. return the questionnaire **or**
 2. attend for or submit to medical examination

the six months rule includes being treated as not having LCW for old style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(f); ESA Regs 13, reg 18, 19, 26(2)(b) & 26(4)(c); ESA Regs 08, regs 22, 23 & 30(2)(b)

Determination of LCWRA

- V8136 The modifications mean that for the purposes of a fresh determination as to whether a person has LCWRA, that determination can include a determination on LCWRA for old style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(g); ESA Regs 13, regs 30(4); ESA Regs 08, Part 6

Exempt work

- V8137 The modifications mean that for the purposes of exempt work, old style ESA is a relevant benefit¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(ga); ESA Regs 13, reg 39(6) & (7)(b)

Waiting days

- V8138 The modifications mean that where

1. the claimant is entitled to an old style award of ESA from the first day of the PLCW without having to serve waiting days **and**
2. the award continues as a new style award of ESA as in V8127 from a day between the second and the seventh day of that PLCW

for the purposes of claimants not having to serve waiting days where their entitlement to new style ESA commences within 12 weeks of the end of an award of a specified benefit, that entitlement to ESA includes the period of entitlement to old style ESA¹.

Note: See DMG Chapter 41 for guidance on when waiting days do not apply.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(1)(b) & (2)(gb); ESA Regs 13, reg 85(2)(a);
ESA Regs 08, reg 144(2)(a)*

Appeal against determination of no limited capability for work

V8139 The modifications mean that an appeal against a determination that a claimant does not have LCW includes such a determination for old style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(h); ESA Regs 13, reg 87(1)

Temporary absence

V8140 The modifications mean that where

1. a claimant had an old style ESA award immediately before a UC claim or award¹ as in V8127 **and**
2. a period of temporary absence from GB began when the claimant was entitled to old style ESA² **and**
3. the first four weeks of temporary absence had not ended immediately before the first day of entitlement to new style ESA

the period of four weeks for which the claimant continues to be entitled to ESA during a period of temporary absence includes both the period for which there was entitlement to old style ESA and the remainder of that four week period where there was entitlement to new style ESA³.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(1)(b); 2 ESA Regs 08, reg 152;
3 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(i); ESA Regs 13, reg 89*

Temporary absence – receiving medical treatment

V8141 The modifications mean that where

1. a claimant had an old style ESA award immediately before a UC claim or award¹ as in V8127 **and**
2. a period of temporary absence from GB to receive medical treatment began when the claimant was entitled to old style ESA² **and**

3. the first 26 weeks of temporary absence had not ended immediately before the first day of entitlement to new style ESA

the period of 26 weeks for which the claimant continues to be entitled to ESA during a period of temporary absence to receive medical treatment includes both the period for which there was entitlement to old style ESA and the remainder of that 26 week period where there was entitlement to new style ESA³.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(1)(b); 2 ESA Regs 08, reg 153;
3 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(j); ESA Regs 13, reg 90*

Misconduct

V8142 The modifications mean that a claimant is to be disqualified for receiving new style ESA¹ for a period decided by the DM for the purposes of old style ESA² less any days of that period of disqualification already served. However, this does not apply if a claimant is

1. a person in hardship³ **or**
2. disqualified for receiving ESA under certain legislation⁴ (loss of benefit provisions).

Also, the DM should not disqualify a claimant for receiving new style ESA if the reason for the disqualification has already been decided for the purposes of old style ESA⁵.

Note: See ADM Chapter U6 (ESA disqualification) for the meaning of person in hardship.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(k); ESA Regs 13, reg 93(5); 2 ESA Regs 08, reg 157(2);
3 ESA Regs 13, reg 93(3)(a); 4 reg 93(3)(b); SS Fraud Act 01, s 6B & 7; 5 ESA Regs 13, reg 93(6)*

Imprisonment or detention in legal custody

V8143 The modifications mean that a claimant is also to be treated as not having LCW if

1. they are disqualified for receiving old style ESA(Cont) during a period of imprisonment or detention in legal custody **and**
2. new style ESA has effect during the period of
 - 2.1 imprisonment or detention in legal custody **and**
 - 2.2 six weeks from the day on which they were first disqualified under 1. **and**
3. the total of the period of disqualification of
 - 3.1 old style ESA(Cont) **and**
 - 3.2 new style ESAis more than six weeks¹.

Note 1: See ADM Chapter U2 (ESA Limited capability for work and Limited capability for work-related activity) for guidance on being treated as not having LCW during a period of imprisonment or detention in legal custody. However, DMs should note that the relevant legislation has been modified².

Note 2: See ADM Chapter U6 (ESA disqualification) for guidance on disqualification for imprisonment or detention in legal custody.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(2)(l); ESA Regs 13, reg 95(2); 2 reg 95(1)

Limitation to no more than 365 days

V8144 The modifications mean that when entitlement to ESA(Cont) is limited to 365 days, days of entitlement to new style ESA as well as days of entitlement to old style ESA, where appropriate, are included in that limit¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(3) & (4); WR Act 07, s 1A & 1B

Assessment phase

V8145 The modifications mean that where

1. a claimant has an award of old style ESA(Cont) **and**
2. the award of old style ESA(Cont) had not been preceded by an award of new style ESA

the beginning of the assessment phase is the first day of entitlement to old style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 10(5); WR Act 07, s 24(2)

V8146 - V8159

Transition from new style ESA

Introduction

V8160 Where

1. a claimant makes, or is treated as making, a claim for old style ESA¹ **and**
2. V8161 is satisfied

the old style ESA provisions² are modified as in V8163 et seq.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(1)(a); 2 ESA Regs 08

V8161 V8160 applies where

1. the claimant
 - 1.1 had previously made **or**
 - 1.2 was treated as having made
- a claim for new style ESA¹ **or**

2. a conversion notice² was issued in respect of new style ESA³ **or**
3. the claimant previously had an award of old style ESA(Cont) immediately before a UC
 - 3.1 claim
 - 3.1.a is made in accordance with V8040 **or**
 - 3.1.b is made and the claimant gives incorrect information in accordance with V8050 **or**
 - 3.1.c is treated as made by a couple in accordance with V8060 **or**
 - 3.1.d is required from former joint claimants in accordance with V8063 **or**
 - 3.2 award is made where a claim is not required in accordance with V8065 (Live Service only) or V8066⁴.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(1A)(a); 2 ESA (TP, HB & CTB) (EA) (No. 2) Regs, reg 4;
3 WR Act 12 (Commencement No. 9 etc.) Order, art 11(1A)(b); 4 art 11(1A)(c)*

V8162 V8163 et seq also applies where a person had a new style ESA award but the old style ESA provisions apply again as in V8100¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(1)(b)

Modifications

V8163 Where V8160 or V8162 apply the old style ESA provisions¹ are modified in accordance with V8164 - V8181.

1 ESA Regs 08

Definition – limited capability for work

V8164 The modifications mean that the definition of period of LCW includes a period (unless it is outside the prescribed time for claiming) throughout which the claimant has, or is treated as having, LCW for new style ESA¹.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(a);
ESA Regs 08, reg 2(1) & (5); ESA Regs 13; UC, PIP, JSA & ESA (C&P) Regs, reg 28*

Assessment phase – previous claimants

V8165 The modifications mean that, where the new style and old style awards link, then, in calculating the end of the assessment phase, the days of entitlement to new style ESA in the linked award are included in that calculation¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(b); ESA Regs 08, reg 5; ESA Regs 13, reg 26

Support component payable from first day of entitlement

V8166 The modifications mean that, where the new style and old style awards link, then, in determining whether the support component is payable from the first day of

entitlement, any “earlier period of LCW” in respect of which the claimant was entitled to ESA includes the period of entitlement to new style ESA¹.

Note: From 3.4.17 the WRAC is no longer included in an award of ESA for claims made on or after that date. See ADM Chapter V6 (ESA: Assessment phase and components) for further details, including where transitional provisions apply.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(c); ESA Regs 08, reg 7; ESA Regs 13, reg 26

Condition relating to youth

V8167 The modifications mean that the conditions relating to youth include entitlement to new style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(d); ESA Regs 08, reg 10

Determination of limited capability for work

V8168 The modifications mean that a determination of LCW can include

1. a determination of LCW for new style ESA¹ **and**
2. being treated as having LCW for new style ESA² where a person
 - 2.1 satisfies certain conditions³ **or**
 - 2.2. is a hospital patient⁴ **or**
 - 2.3 is receiving certain regular treatments⁵ **or**
 - 2.4 has exceptional circumstances⁶

for the purposes of determining afresh whether the claimant has or is treated as having LCW.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(e)(i); ESA Regs 08, regs 19(7)(a); ESA Regs 13, Part 4; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(e)(ii); ESA Regs 08, regs 19(7)(b); 3 ESA Regs 13, reg 16; 4 reg 21; 5 reg 22; 6 reg 25

Treated as having limited capability for work

V8169 The modifications mean that for the purposes of whether a claimant can be treated as having LCW until a determination of LCW has been made following a determination that the claimant is treated as not having LCW because they failed without good cause to

1. return the questionnaire **or**
2. attend for or submit to medical examination

the six months rule includes being treated as not having LCW for new style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(f); ESA Regs 08, reg 22, 23 & 30(2)(b) & (2)(b)(iii); ESA Regs 13, regs 18, 19 & 26(2)(b)

Determination of LCWRA

V8170 The modifications mean that for the purposes of a fresh determination as to whether a person has LCWRA, that determination can include a determination on LCWRA for new style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(g); ESA Regs 08, reg 34(4); ESA Regs 13, Part 5

Exempt work

V8171 The modifications mean that for the purposes of exempt work, new style ESA is a relevant benefit¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(ga); ESA Regs 08, reg 45(4)(a)(ii) & (10)

Waiting days

V8172 The modifications mean that, where

1. the claimant is entitled to a new style award of ESA from the first day of the PLCW without having to serve waiting days **and**
2. the award continues as an old style award of ESA as in V8161 from a day between the second and the seventh day of that PLCW

for the purposes of claimants not having to serve waiting days where their entitlement to old style ESA commences within 12 weeks of the end of an award of a specified benefit, that entitlement to ESA includes the period of entitlement to new style ESA¹.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(1)(b) & (2)(gb); ESA Regs 08, reg 144(2)(a);
ESA Regs 13, reg 85(2)(a)*

Appeal against determination of no limited capability for work

V8173 The modifications mean that an appeal against a decision which embodies a determination that a claimant does not have LCW includes such a determination for new style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(h); ESA Regs 08, reg 147A(1)

Temporary absence

V8174 The modifications mean that where

1. a claimant had a new style ESA award immediately before a UC claim or award¹ as in V8162 **and**
2. a period of temporary absence from GB began when the claimant was entitled to new style ESA² **and**
3. the first four weeks of temporary absence had not ended immediately before the first day of entitlement to old style ESA

the period of four weeks for which the claimant continues to be entitled to ESA during a period of temporary absence includes both the period for which there was entitlement to new style ESA and the remainder of that four week period where there was entitlement to old style ESA³.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(1)(b); 2 ESA Reg 13, reg 89;

3 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(i); ESA Regs 08, reg 152

Temporary absence – receiving medical treatment

V8175 The modifications mean that where

1. a claimant had a new style ESA award immediately before a UC claim or award¹ as in V8162 **and**
2. a period of temporary absence from GB to receive medical treatment began when the claimant was entitled to new style ESA² **and**
3. the first 26 weeks of temporary absence had not ended immediately before the first day of entitlement to old style ESA

the period of 26 weeks for which the claimant continues to be entitled to ESA during a period of temporary absence to receive medical treatment includes both the period for which there was entitlement to new style ESA and the remainder of that 26 week period where there was entitlement to old style ESA³.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(1)(b); 2 ESA Regs 13, reg 90;

3 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(j); ESA Regs 08, reg 153

Misconduct

V8176 The modifications mean that a claimant is to be disqualified for receiving old style ESA¹ for a period of not more than six weeks decided by the DM for the purposes of new style ESA² less any days of that period of disqualification already served³. However, this does not apply if a claimant is

1. disqualified for receiving ESA under certain legislation⁴ (loss of benefit provisions) **or**
2. a person in hardship⁵.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(k); ESA Regs 08, reg 157(1); 2 ESA Regs 13, reg 93(2);

3 ESA Regs 08, reg 157(4) 4 reg 157(3)(a); SS Fraud Act 01, s 6B & 7; 5 ESA Regs 08, reg 157(3)(b)

V8177 Where V8176 applies, the DM should not disqualify a claimant for receiving old style ESA if the reason for the disqualification has already been decided for the purposes of new style ESA¹.

Note: See DMG Chapter 53 for the meaning of person in hardship for old style ESA.

1 ESA Regs 08, reg 157(5)

Imprisonment or detention in legal custody

V8178 The modifications mean that a claimant is also to be treated as not having LCW if

1. they are disqualified for receiving new style ESA during a period of imprisonment or detention in legal custody **and**
2. old style ESA(Cont) has effect during the period of
 - 2.1 imprisonment or detention in legal custody **and**
 - 2.2 six weeks from the day on which they were first disqualified under 1. **and**
3. the total of the period of disqualification of
 - 3.1 new style ESA **and**
 - 3.2 old style ESA(Cont)
 is more than six weeks¹.

Note 1: See DMG Chapter 42 for guidance on when a claimant is treated as not having LCW for old style ESA during a period of imprisonment or detention in legal custody. However, DMs should note that the relevant legislation has been modified².

Note 2: See DMG Chapter 53 for guidance on disqualification for old style ESA for imprisonment or detention in legal custody.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(l); ESA Regs 08, reg 159(2); 2 reg 159(1)

Housing costs

- V8179 The modifications mean that, when calculating the period of entitlement to old style ESA for the purposes of whether new or existing housing costs can be met, periods of new style ESA are included¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(2)(m); ESA Regs 08, Sch 6, para 8(1) & 9(1)

Limitation to no more than 365 days

- V8180 The modifications mean that when entitlement to ESA(Cont) is limited to 365 days, days of entitlement to new style ESA as well as days of entitlement to old style ESA, where appropriate, are included in that limit¹.

Note: This includes awards of IB or SDA converted to an award of new style ESA².

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(3); WR Act 07, s 1A & 1B;

2 WR Act 12 (Commencement No. 9 etc.) Order, art 11(4)

Assessment phase

- V8181 The modifications mean that where
1. a claimant has an award of new style ESA **and**
 2. the award of new style ESA had not been preceded by an award of old style ESA

the beginning of the assessment phase is the first day of entitlement to new style ESA¹.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 11(5); WR Act 07, s 24(2)

V8182 - V8199

Sanctions

Introduction

V8200 There are modifications to sanctions provisions for transition from old style ESA to new style ESA:

1. V8210 et seq gives guidance where there is a new award
2. V8220 et seq gives guidance where there is a continuing award **and**
3. V8230 et seq gives guidance on escalation of sanctions and
4. V8151 gives guidance on termination of new style ESA sanctions.

Meaning of relevant failure

V8201 Relevant failure means the failure which led to an old style ESA sanction¹. For new style ESA² the relevant failure is treated as sanctionable³.

*1 WR Act 12 (Commencement No. 9 etc.) Order, art 14(2)(a) & 15(2)(a); 2 ESA Regs 13, Part 8;
3 WR Act 07, s 11J*

V8202 - V8209

New award

V8210 V8211 applies where

1. a claimant
 - 1.1 is entitled to new style ESA
 - 1.2 was previously entitled to old style ESA that was not in existence immediately before the start of the new style ESA award¹ **and**
2. immediately before entitlement to old style ESA ended, payments were reduced because of a sanction².

1 WR Act 12 (Commencement No. 9 etc.) Order, art 14(1)(a); 2 art 14(1)(b); ESA Regs 08, reg 63

V8211 Where V8210 applies

1. the relevant failure is treated as a sanctionable failure¹ for new style ESA² **and**
2. the new style ESA award is reduced because of the relevant failure³ **and**

3. the reduction for new style ESA⁴ is treated as a sanctionable failure⁵.

*1 WR Act 12, s 11J; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 14(2)(a); 3 art 14(2)(b);
ESA Regs 13, Part 8; 4 ESA Regs 13; 5 WR Act 12 (Commencement No. 9 etc.) Order, art 14(2)(c);
WR Act 12, s 11J*

Reduction period

V8212 The reduction period for the new style ESA sanction is the length of the fixed period for the relevant failure¹ less

1. the number of days, if any, that the amount of old style ESA was reduced **and**
2. the number of days, if any, between the end of the old style ESA award and the start of the new style ESA award².

*1 ESA Regs 08, reg 63; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 15(3) & (4);
ESA Regs 13, reg 51(1) & (3)*

V8213 - V8219

Continuing award

V8220 V8221 applies where¹

1. a UC
 - 1.1 claim
 - 1.1.a is made and the claimant gives incorrect information in accordance with V8050 **or**
 - 1.1.b is treated as made by a couple in accordance with V8060 **or**
 - 1.1.c is required from former joint claimants in accordance with V8063 **or**
 - 1.2 award is made where a claim is not required in accordance with V8065 (Live Service only) or V8066 **and**
2. immediately before the date on which the conditions at 1. are satisfied, the claimant had an award of old style ESA(Cont) **and**
3. immediately before the date on which the conditions at 1. are satisfied, payments were reduced because of a sanction².

1 WR Act 12 (Commencement No. 9 etc.) Order, art 15(1); 2 ESA Regs 08, reg 63

V8221 Where V8220 applies

1. the relevant failure is treated as a sanctionable failure¹ for new style ESA² **and**
2. the new style ESA award is reduced because of the relevant failure³ **and**
3. the reduction for new style ESA⁴ is treated as a sanctionable failure⁵.

*1 WR Act 12, s 11J; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 15(2)(a); 3 art 15(2)(b); ESA Regs 13,
Part 8; 4 ESA Regs 13; 5 WR Act 12 (Commencement No. 9 etc.) Order, art 15(2)(c); WR Act 12, s 11J*

Reduction period

V8222 The reduction period for the new style ESA sanction is the length of the fixed period for the relevant failure¹ less the number of days, if any, that the old style ESA was reduced².

*1 ESA Regs 08, reg 63; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 15(3) & (4);
ESA Regs 13, reg 51(1) & (3)*

V8223 - V8229

Escalation of sanctions

V8230 V8231 - V8232 applies to¹

1. a new style ESA award as in V8210 **or**
2. an old style ESA award at any time before the new style award.

1 WR Act 12 (Commencement No. 9 etc.) Order, art 16(1)

V8231 Unless V8232 applies, for the purposes of determining the period of a low-level sanction¹, for a person to whom V8230 applies

1. a reduction of ESA for a new award or a continuing award **and**
2. any reduction of old style ESA for which there is no reduction for a new award or a continuing award

is to be treated as a sanctionable failure for which the reduction period is the same as an old style ESA fixed period².

Note 1: This does not apply in relation to a failure which is treated as sanctionable³ for a new award or a continuing award.

Note 2: See V8210 et seq for guidance on new awards and V8220 et seq for guidance on continuing awards.

*1 ESA Regs 13, reg 52; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 16(2);
ESA Regs 08, reg 63; 3 WR Act 12 (Commencement No. 9 etc.) Order, art 14 & 15*

V8232 When determining the period of the sanction in V8231, DMs should **not** take account of

1. a reduction from a new award or continuing award if, at any time after that reduction, a person was entitled to
 - 1.1 old style ESA **or**
 - 1.2 old style JSA **or**
 - 1.3 IS¹ **or**
2. a reduction of old style ESA if, at any time after that reduction, a person was entitled to

- 2.1** UC **or**
- 2.2** new style ESA **or**
- 2.3** new style JSA

and was subsequently entitled to old style ESA, old style JSA or IS².

1 WR Act 12 (Commencement No. 9 etc.) Order, art 16(3)(a); 2 art 16(3)(b)

V8233 - V8234

Termination of new style ESA sanctions

V8235 V8236 applies where

- 1.** a new style ESA award ends while there is an outstanding reduction period¹ and during that period the claimant becomes entitled to an old style ESA award or IS² **or**
- 2.** a new style ESA award continues as an old style ESA award as in V8101 and there is an outstanding reduction period on the last day of entitlement to new style ESA³.

1 ESA Regs 13, reg 55; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 20(1)(a); 3 art 20(1)(b)

V8236 For the purposes of V8235 the new style ESA reduction period¹ will

- 1.** no longer apply **and**
- 2.** end on the first day of
 - 2.1** an old style ESA award **or**
 - 2.2** entitlement to IS².

1 ESA Regs 13, reg 55; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 20(2)

V8237 - V8999

Appendix: WR Act 12 Commencement etc. Orders

WR Act 12 (Commencement No. 11 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment))
Order 2013

WR Act 12 (Commencement No. 13 and Transitional and Transitory Provisions)
Order 2013

WR Act 12 (Commencement No. 14 and Transitional and Transitory Provisions)
Order 2013

WR Act 12 (Commencement No. 16 and Transitional and Transitory Provisions)
Order 2014

WR Act 12 (Commencement No. 17 and Transitional and Transitory Provisions)
Order 2014

WR Act 12 (Commencement No. 19 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment))
Order 2014

WR Act 12 (Commencement No. 20 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment))
Order 2014

WR Act 12 (Commencement No. 21 and Transitional and Transitory Provisions)
Order 2015

WR Act 12 (Commencement No. 22 and Transitional and Transitory Provisions)
Order 2015

WR Act 12 (Commencement No. 23 and Transitional and Transitory Provisions)
Order 2015

WR Act 12 (Commencement No. 24 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment))
Order 2015

WR Act 12 (Commencement No. 25 and Transitional and Transitory Provisions)
Order 2015

WR Act 12 (Commencement No. 26 and Transitional and Transitory Provisions and Commencement No. 22, 23 and 24 and Transitional and Transitory Provisions (Modification))
Order 2016

WR Act 12 (Commencement No. 27 and Transitional and Transitory Provisions and Commencement No. 22, 23 and 24 and Transitional and Transitory Provisions (Modification)) Order 2016

WR Act 12 (Commencement No. 13, 14, 16, 19, 22, 23 and 24 and Transitional and Transitory Provisions (Modification)) Order 2016

WR Act 12 (Commencement No. 19, 22, 23 and 24 and Transitional and Transitory Provisions (Modification)) Order 2016

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