

Chapter V7: ESA sanctions

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Chapter V7: ESA sanctions

Introduction

Scope of this Chapter

V7001 This Chapter gives guidance on

1. general principles for making decisions on sanctions (see V7005 et seq)
2. what level of sanctions apply (see V7105 et seq)
3. when a reduction begins and ends (see V7180 et seq)
4. the amount of a reduction (see V7300 et seq)
5. the effect of an ESA reduction on UC, and a UC reduction on ESA (see V7350).

V7002 References to ESA and JSA in this Chapter are to new style ESA and JSA which are being gradually phased in from 29.4.13¹. See ADM Chapter M1 (Pathfinder Group – claims for UC) for guidance on the meaning of new style ESA and JSA.

1 WR Act 12, Sch 3 & Sch 14, Part 1

V7003 – V7004

General principles

Introduction

V7005 Once a DM determines that a reduction should apply for a sanctionable failure, the period is added to the total outstanding reduction period (see V7061) for that claimant. Reductions are then made to the award of ESA based on the number of days in the total outstanding reduction period. The reduction is calculated by either

1. the number of days in the benefit week (where the total outstanding reduction period is greater than this number) multiplied by the daily sanction amount **or**
2. the number of days in the total outstanding reduction period (where the number of days in the total outstanding reduction period is lower than the number of days in the benefit week) multiplied by the daily sanction amount.

V7006 The reduction will then be taken from the award from

1. where the claimant has not been paid ESA for the benefit week in which the DM determines that a reduction should be imposed, the first day of that benefit week **or**

2. where the claimant has been paid ESA for the benefit week in which the DM determines that a reduction should be imposed, the first day of the benefit week for which ESA is not paid **or**
2. if the award is already subject to a reduction, the first day that the award is not subject to a reduction.

V7007 – V7009

Definitions

Meaning of sanctionable failure

V7010 A sanctionable failure is a failure that has incurred a reduction of benefit under relevant legislation¹. Sanctionable failures in ESA can result in a low or lowest—level sanction².

Note: See V7012 for the meaning of current sanctionable failure. See guidance at V7105 for low level sanctions and V7160 for lowest level sanctions.

1 WR Act 2013, S11j, 12 & 13; 2 ESA Regs 13, reg 52 & 53

V7011 Where a failure is a sanctionable failure, the claimant's award of ESA is normally reduced. The period and amount of reduction depends on¹

1. which work—related requirement the claimant failed to comply with **and**
2. the number of sanctionable failures **and**
3. the period between failures.

1 WR Act 07, s 11J(3), (4) & (7)

Meaning of current sanctionable failure

V7012 Current sanctionable failure¹ means a failure which the Secretary of State has not yet determined is to reduce ESA under relevant legislation².

1 ESA Regs 13, reg 50; 2 WR Act 2013, s 11J, 12 & 13

Meaning of relevant failure

V7013 Relevant failure¹ means a

1. sanctionable failure giving rise to a low-level sanction
2. UC sanctionable failure giving rise to a low-level sanction under relevant legislation² **or**
3. JSA sanctionable failure giving rise to a low-level sanction under relevant legislation³.

1 ESA Regs 2013, reg 50; 2 WR Act 12 s 27, UC Regs, reg 104; 3 JS Act, s 6K, JSA Regs 2013, reg 21

Reduction periods

V7014 For relevant failures¹ that occur on or after 25.7.16 the fixed reduction periods that apply, depending on the circumstances in which the failure has occurred, are provided for in a table². The circumstances of the failure are described in the first column of each table and has effect for the period set out in the second column.

Note: The length of the actual fixed reduction periods have not altered. See guidance in ADM Chapter V7115 for the reduction periods for low-level sanctions and V7170 for lowest level sanctions.

1 WR Act 2007, s 11J, 12 & 13; 2 ESA Regs 2013, reg 52

V7015 – V7029

Meaning of low and lowest-level sanctions

V7030 For low and lowest-level sanctions, a sanctionable failure is a failure by a claimant with no good reason to comply with¹

1. a work-focused interview requirement²
2. a work preparation requirement³
3. other requirements connected to work-related requirements, such as attending an interview to impose or verify compliance with a work-related requirement, or reporting specified changes in circumstances⁴.

Note: See ADM Chapter U5 for further guidance on work-related requirements.

1 WR Act 07, s 11J; ESA Regs 13, reg 50; 2 WR Act 07, s 11B; 3 s 11C; 4 s 11G

V7031 – V7039

Meaning of compliance condition

V7040 Low and lowest-level sanctions have effect for a period which continues until the claimant meets a compliance condition. Low-level sanctions also include a further fixed period¹.

1 WR Act 07, s 11J(4); ESA Regs 13, reg 52 & 53

V7041 In V7040, a compliance condition is the requirement the claimant needs to complete in order to terminate the period of the reduction (and for low-level sanctions, to start the fixed period)¹. This will usually be the original requirement the claimant failed to meet, but where this is not appropriate then it will be a suitable alternative requirement as specified. For example, if a claimant failed to attend a training course which is no longer running, then the compliance condition could be to require the claimant to contact the provider to enquire about future courses or to make an appointment with the adviser to discuss next steps.

1 WR Act 07, s 11J(5)

V7042 Examples of compliance conditions include

1. meeting the requirement, for example updating a CV
2. making an appointment for a WFI or an interview
3. attending the next available skills training course.

Note: This list provides examples only and is **not** exhaustive.

V7043 The claimant is notified of what they must do to meet a compliance condition as in V7041, including where the compliance condition is revoked or varied¹. The compliance condition may be included in the claimant commitment at the same time as the original work-related requirement.

1 WR Act 07, s 11J(6)

V7044 – V7049

Meaning of reduction period

V7050 The reduction period is the number of days for which an award of ESA is reduced for each sanctionable failure¹. See V7180 et seq for guidance on when the reduction period takes effect.

1 UC Regs, reg 101(1)

V7051 Reduction periods run consecutively¹. If it is determined that an award of ESA should be reduced as a result of a sanctionable failure, and a reduction has already been imposed for a previous sanctionable failure, the later reduction is added to the total outstanding reduction period, and takes effect once the previous reduction has ended. This may mean that more than one reduction could be made in the same benefit week.

1 ESA Regs 13, reg 51(2) & 54(c)

V7052 When calculating which reduction period applies for a low-level sanction, a previous sanctionable failure (including a JSA or UC low-level sanctionable failure) is disregarded for the purposes of escalation (see V7088) if

1. it is within 14 days of the current sanctionable failure¹ **or**
2. it is within 365 days of the current sanctionable failure² **or**
3. it is not at the same level as the current sanctionable failure.

Note 1: See V7117 for examples.

Note 2: The DM considers whether there has been another sanctionable failure within 14 days or 365 days of the failure in question.

1 ESA Regs 13, reg 51(4); 2 reg 52

V7053 See V7180 et seq for guidance on when a reduction period begins and ends, including where

1. a reduction is suspended when the amount of ESA is restricted following one or more benefit fraud offences¹ **or**
2. the reduction period continues after ESA entitlement terminates².

1 ESA Regs 13, reg 56; SS Fraud Act 01, s 6B & 7; 2 ESA Regs 13, reg 57

V7054 – V7059

Maximum reduction period

V7060 Where imposing a reduction period for a sanctionable failure would mean that the total outstanding reduction period would exceed 1095 days, the number of days in the reduction period is adjusted to ensure that this limit is not exceeded¹. The calculation of the total outstanding reduction period is made at the date when the DM makes the determination of the reduction period.

Note: DMs are reminded that ESA entitlement for claimants subject to work-related requirements is a maximum of 365 days based on the same tax years. See ADM Chapter V2 (Duration of ESA award) for further guidance.

1 ESA Regs 13, reg 51(3)

Meaning of total outstanding reduction period

V7061 When considering whether V7060 applies, the total outstanding reduction period is the total number of days of a reduction period for which an award of ESA has not yet been reduced¹.

1 ESA Regs 13, reg 50

V7062 – V7069

Sanctionable failure decision making

Introduction

V7070 This section gives guidance on general principles the DM should consider when making decisions on sanctionable failures.

V7071 – V7074

Has the claimant failed to comply with a work-related requirement

V7075 When considering whether to impose a low or lowest-level sanction, the DM should first determine whether the claimant has failed to comply with a work-related requirement and if so, what that failure is. See ADM Chapter U5 for detailed guidance on work-related requirements.

Does a reduction apply

V7076 Where the DM determines that the claimant has failed to comply with a work-related requirement, the next step is to consider whether it is a failure for which a reduction would apply.

V7077 – V7079

Good reason

V7080 If the DM determines that the failure is one for which a reduction would apply, they should consider whether the claimant had a good reason for the failure to comply. See ADM Chapter K2 for detailed guidance on good reason.

V7081 – V7084

Which sanction level and reduction period applies

V7085 Where

1. the claimant has no good reason for a failure to comply with a work-related requirement **and**
2. the sanctionable failure is one for which a reduction applies

the DM should consider which sanction level and reduction period applies.

V7086 The reduction period depends on whether the sanctionable failure results in a

1. low-level sanction¹ (see V7105 et seq) **or**
2. lowest-level sanction² (see V7160 et seq).

V7087 Reduction periods can be for

1. an open period until the claimant meets a compliance condition **or**
2. a fixed period **or**
3. a combination of both.

Low-level sanctions have a combination of an open period until compliance, followed by a fixed period, while lowest-level sanctions are for an open period until compliance.

V7088 For low-level sanctions, reduction periods are for different lengths depending on whether there have been other sanctionable failures at the same level before the current failure. This is known as escalation.

V7089 As part of the process of considering whether escalation applies, the DM should consider whether there have been previous sanctionable failures

1. at the same level **and**
2. for which a decision to impose a reduction has been made, even if the reduction has not yet begun.

Note: This includes previous low-level JSA or UC sanctionable failures.

V7090 The DM should also consider whether there was another sanctionable failure in the period preceding the current failure. This includes failures which were subsequent to the failure in question, but were decided earlier.

V7091 – V7099

Start of reduction period

V7100 Once the DM has determined which sanction level and reduction period applies, including where the period is reduced as in V7060, the reduction period is added to the total outstanding reduction period (see V7061). The next step is to determine when the reduction period begins. The DM also needs to consider whether the period should follow a previous reduction as in V7052.

Amount of reduction

V7101 The final step in the process of making a decision on a sanctionable failure is to determine the amount of the reduction¹, including the daily reduction rate². This varies depending on the claimant's circumstances at the end of the benefit week. The daily reduction rate is

1. the prescribed amount excluding the component multiplied by 52 and divided by 365 **or**

2. where the claimant satisfies certain conditions at the end of the benefit week (including a change to work-related requirements during the benefit week)
 - 2.1 40% of the daily reduction rate in 1. (for example where they are responsible for a child aged between one and four) **or**
 - 2.2 nil (where they have LCWRA).

See V7300 et seq for further guidance.

1 ESA Regs 13, reg 58; 2 reg 59 & 60

V7102 – V7104

Low-level sanctions

Introduction

V7105 A low-level sanction is a reduction of ESA for a sanctionable failure by a claimant¹ who fails without good reason to comply with specified work-related requirements² – see V7110.

Note: See ADM Chapter U5 for guidance on work-related requirements. See V7010 for the meaning of a sanctionable failure.

1 WR Act 07, s 11J; ESA Regs 13, reg 50(1); 2 WR Act 07, s 11F(2) & 11G

V7106 The reduction period is in two parts:

1. an open period which ends as in V7115 1.¹ **and**
2. a fixed period of 7, 14 or 28 days² (see V7115 2.).

1 ESA Regs 13, reg 52(a); 2 reg 52(b)

V7107 The length of the fixed period reduction in V7106 2. depends on whether there have been previous sanctionable failures resulting in a low-level sanction. See V7115 et seq for further details.

V7108 – V7109

Which work-related requirement failures are subject to low-level sanctions

V7110 Low-level sanctions apply where the claimant fails without good reason to comply with¹

1. a WFI requirement for claimants who are subject to work preparation requirement and WFI requirement² **or**
2. a work preparation requirement² **or**
3. a requirement to

- 3.1 take part in an interview about the imposition of or compliance with a work-related requirement **or**
- 3.2 provide information or evidence of compliance with a work-related requirement **or**
- 3.3 report changes of circumstances relevant to the imposition of or compliance with a work-related requirement⁴.

Note 1: See ADM Chapter U5 for detailed guidance on work-related requirements.

Note 2: See V7120 et seq for further details where the work preparation requirement is to participate a work placement or work experience.

1 ESA Regs 13, reg 50; 2 WR Act 07, s 11F(2); 3 s 11G

V7111 – V7114

What is the reduction period

V7115 The reduction period is the total of¹

- 1. the number of days beginning with the date of the sanctionable failure and ending with
 - 1.1 the day before the day on which the claimant meets a compliance condition specified by the Secretary of State **or**
 - 1.2 the day before the day on which the claimant falls into the “no work-related requirements” group² **or**
 - 1.3 in the case of a work preparation requirement, the day before the day on which the claimant is no longer required to take specified action³ **or**
 - 1.4 the date on which the award of ESA terminates
 whichever is soonest **and**
- 2. a fixed period of
 - 2.1 7 days where there has not been a previous low-level sanctionable failure in the 364 days immediately before the date of the current failure **or**
 - 2.2 14 days if, in the 364 days immediately before the date of the failure, there was another low-level sanctionable failure for which a 7 day reduction was imposed **or**
 - 2.3 28 days if, in the 364 days immediately before the date of the failure, there was another low-level sanctionable failure for which a 14 day or 28 day reduction was imposed.

Note 1: See V7040 for the meaning of compliance condition.

Note 2: The DM considers whether there has been another sanctionable failure within 14 days or 365 days of the date of the failure in question.

1 UC Regs, reg 104(2); 2 WR Act 12, s 19; 3 s 16

V7116 In V7115 2., JSA and UC low-level sanctions¹

1. for which a fixed period reduction of 7, 14 or 28 days was imposed **and**
 2. where the sanctionable failure fell within 365 days of the current failure
- are included when considering which fixed reduction period applies².

1 JSA Regs 13, reg 21; UC Regs, reg 104; 2 ESA Regs 13, reg 52(b)(iii), (iv), (vi) & (vii)

V7117 A sanctionable failure (including a JSA or UC sanctionable failure) which

1. is within 14 days of the failure under consideration¹ **or**
2. resulted in a reduction at a different level

does not count for the purposes of calculating which period in V7115 2. applies.

1 ESA Regs 13, reg 51(4)

Example 1

Hayley is entitled to ESA including the WRAC. Her award has already been reduced for a sanctionable failure including a 7 day period, due to a failure to attend a WFI on 21.5.14. Hayley was required to take part in a further WFI on 7.8.14, and to produce a CV at the same time, but fails to attend. She phones on 12.8.14 to say she forgot about the appointment, and still hasn't prepared her CV.

The DM determines that Hayley had no good reason for her failure to attend the interview, and a reduction is imposed including a 14 day period. As Hayley did not produce the CV on the required date, and has not given an explanation for this, a further reduction including a period of 14 days is imposed for the second failure.

Example 2

Carlo is entitled to ESA. He is required to take part in a WFI, but refuses to do so. The DM imposes a reduction for the sanctionable failure, including a fixed period reduction of 7 days.

Carlo is involved in a road traffic accident, and after further application of the WCA, is found to have LCWRA. The open part of the reduction ends as the DM determines that Carlo is not subject to work-related requirements.

Example 3

Lily is entitled to JSA. She is in the all work-related requirements group, and due to a sanctionable failure a 91 day higher-level sanction is imposed from June 2014. Lily's health deteriorates and she claims ESA in August 2014. After application of the WCA the DM determines that she has LCW. Lily is now in the work preparation group, and fails to attend an initial WFI. Lily's previous higher-level JSA sanction is not used to calculate the fixed period of the lower-level sanction imposed due to the failure to take part in a WFI.

V7118 – V7119

Participating in an employment programme

V7120 A low-level sanction can be imposed where the claimant fails to comply with a work preparation requirement (see V7110 2.) which

1. is specified by the Secretary of State **and**
2. in the opinion of the Secretary of State makes it more likely that the claimant will obtain paid work, more paid work or better paid work¹.

Note: This includes participating in an employment programme.

1 WR Act 07, s 11C(3)(d)

V7121 Individual programmes are not defined in ESA legislation, but for the purposes of V7120 employment programmes include

1. The sector-based work academy (sbwa)
2. Skills Conditionality (SC)
3. The Work Programme (Wp).

Note: This list is not exhaustive.

V7122 All these schemes aim to support UC claimants towards or into paid work, more paid work or better paid work, and address various issues such as a lack of experience of work and the associated skills needed within the work place which can have a significant effect on the chances of unemployed people.

V7123 – V7124

Meaning of fails to comply

V7125 Fails to comply is not defined in legislation and therefore takes its everyday meaning of failing 'to meet a specific requirement'. For employment programmes, this includes a failure to take part in any activity which is specified by the Secretary of State in relation to

1. the specific placement with what the provider expects **and**
2. what is considered

2.1 reasonable **and**

2.2 acceptable

in a working situation and in the claimant's individual circumstances, which makes it more likely in the opinion of the Secretary of State that the claimant will obtain paid work, more paid work or better paid work.

V7126 This may include for example

1. turning up for an interview
2. preparing an action plan
3. writing a CV
4. working as a team
5. displaying interpersonal skills
6. taking part in skills training
7. developing a business plan
8. improving personal presentation
9. attending a skills assessment
10. taking part in a work experience or work placement.

It can be any reasonable activity which in the opinion of the Secretary of State will improve a claimant's chances of obtaining paid work, more paid work or better paid work.

Note: It would be for the DM to consider the claimant's reasons for any failure to comply, and the claimant would have to show good reason for the failure. For detailed guidance on good reason see ADM Chapter K2 (Good reason).

Imposition of requirements

V7127 For detailed guidance as to when and how a work preparation requirement is imposed by the Secretary of State see ADM Chapter U5 (Work-related requirements).

Inappropriate behaviour

V7128 Employment programmes such as those listed at V7121 are designed to help certain claimants enhance their employment prospects and gain opportunities to develop skills and disciplines associated with a normal working environment such as attending on time, carrying out tasks, working as a team and interpersonal skills – see V7126. Those skills also include 'behaviours' acceptable in a place of work.

V7129 Whilst on an employment programme, if a claimant uses inappropriate behaviour once mandated onto the programme, this may be regarded as a failure to comply with a specified work preparation requirement.

V7130 A claimant's acts and omissions will be judged by the DM under good reason with reference to that claimant's personal circumstances – see ADM Chapter K2 (Good reason).

Note: Inappropriate behaviour can be any unreasonable act or omission shown towards the employer, other employees or customers, or a refusal to do a specific task, or where a claimant is particularly obstructive.

Example

Em starts her Work Programme placement as required in a charity shop, but is sent home on her first day because of her attitude and rude behaviour towards the other staff and customers. She continually uses obscene language. The DM can consider a sanction as Em's loss of the placement due to her behaviour is a failure to comply with a work preparation requirement as specified by the Secretary of State, as it is not considered acceptable behaviour by a reasonable person in a working situation.

V7131 – V7139

Undertaking work experience or a work placement

V7140 A low-level sanction can be imposed where the claimant fails to comply with a work preparation requirement specified by the Secretary of State which includes undertaking work experience or a work placement¹ (see V7115 2.).

1 WR Act 07, s 11C(3)(e); ESA Regs 13, reg 50

V7141 In ESA legislation there is no definition of work experience. However work experience still exists as a work preparation activity within the mandatory work programmes known as

1. Wp or
2. sbwa.

Work experience placements in Work Programme or sector-based work academies

V7142 Participation in a work experience opportunity is voluntary, and claimants who leave or lose a place on such a placement are treated as having good reason for the failure to comply, unless they lose the place through **gross** misconduct.

Note: For detailed guidance on what constitutes gross misconduct see ADM Chapter K3 (Higher level sanctions).

V7143 The claimant is informed that, whilst participation in the work experience opportunity is voluntary, if their behaviour falls below an acceptable standard, a sanction to their benefit may be applied. For detailed guidance on good reason see ADM Chapter K2 (Good reason).

V7144 – V7159

Lowest-level sanctions

When does a lowest-level sanction apply

V7160 A lowest-level sanction is a reduction of ESA for a sanctionable failure by a claimant who¹

1. falls within the work-focused interview requirement only group² **and**
2. fails without good reason to take part in a WFI³.

See ADM Chapter U4 for guidance on work-related requirements groups, and Chapter U5 for guidance on work-related requirements. See V7010 for the meaning of a sanctionable failure.

1 ESA Regs 13, reg 50 & 53; 2 WR Act 07, s 11(3)(b); 3 s 11J(2)(a)

V7161 – V7169

What is the reduction period

V7170 The reduction period is the number of days¹

1. beginning with the date of the sanctionable failure **and**
2. ending with
 - 2.1 the day before the day on which the claimant meets a compliance condition specified by the Secretary of State **or**
 - 2.2 the day before the day on which the claimant falls into the “no work-related requirements” group² **or**
 - 2.3 the day on which the award terminateswhichever is soonest.

1 ESA Regs 13, reg 53; 2 WR Act 07, s 11(3)(a) & 11D

Note: See V7040 for the meaning of compliance condition, and V7180 et seq for guidance on when the reduction begins.

Example 1

Clive is entitled to ESA, and is the responsible carer for his 4 year old grandson Paul while Paul’s mother is serving a prison sentence. Clive is required to take part in a

WFI on 10.9.14, but fails to attend. He rings the Jobcentre on 15.9.14 to say he forgot about the interview, and makes an appointment for a further WFI. The DM determines that Clive had no good reason for the failure to attend. As Clive met the compliance condition on 15.9.14 his ESA is reduced for a total period of 5 days.

Example 4

Heather is entitled to ESA, and is a lone parent with a daughter aged 3. She is entitled to UC, and is in the work-focused interview requirement only group. Heather fails to attend a WFI on 22.7.14. She does not respond to requests for reasons as to why she failed to attend. The DM imposes a reduction for the sanctionable failure.

On 7.11.14 Heather notifies that on 3.11.14 she started work which is not exempt work. Her ESA award is terminated from 3.11.14. The reduction period ends on 3.11.14, the last day of ESA entitlement.

V7171 – V7179

When a reduction is to have effect

Introduction

V7180 This section gives guidance on when a reduction is to have effect and how to determine

1. the start date of a reduction period
2. the reduction period where the award of ESA terminates
3. the suspension of a reduction where a fraud penalty applies
4. when a reduction is to be terminated.

V7181 – V7184

Start of the reduction

V7185 The reduction period takes effect from

1. where the claimant has not been paid ESA for the benefit week in which the DM determines that a reduction should be imposed, the first day of that benefit week **or**
2. where the claimant has been paid ESA for the benefit week in which the DM determines that a reduction should be imposed, the first day of the benefit week for which ESA is not paid **or**
2. if the award is already subject to a reduction as in **1.** or **2.**, the first day that the award is not subject to a reduction¹.

Note: For the definition of sanctionable failure see V7010.

1 ESA Regs 13, reg 54

V7186 The reduction period determination is incorporated in a supersession decision which takes effect from the same date¹. See ADM Chapter A4 (Supersession) for guidance on the supersession effective date rules.

1 UC, PIP, JSA & ESA (D&A) Regs, reg 27(1)(a) & 35(10)(a)

Example

Luke is entitled to ESA, and is subject to the work preparation and work-focused interview requirement. He fails to attend an initial WFI with an adviser on 3.6.14, and phones on 11.7.14 to say that he forgot. He arranges a new WFI appointment for 16.7.14 which he attends. Luke is referred to the Work Programme.

The DM determines on 25.7.13 that a low-level sanction of 45 days (38 days before compliance + a fixed period of 7 days) should be imposed. Luke was last paid ESA on 21.7.14, so the reduction period begins on 22.7.13, the first day of the benefit week in which the DM determination is made.

Later Luke fails with no good reason to attend a skills assessment session arranged by the provider for 5.8.13. He contacts the provider on 8.8.14 to make a new appointment, explaining that he mixed up the date. The DM imposes a further reduction of 17 days (3 days until compliance followed by a 14 day fixed period reduction), which are added to the total outstanding reduction period. The reduction period begins on 4.9.14, the day after the previous reduction period ends.

V7187 – V7189

Reduction period to continue where award terminates

V7190 If an award of ESA terminates while there is an outstanding reduction period, the reduction period continues to run as if a daily reduction were being applied. If the claimant becomes entitled to a new award of ESA before the period expires, that award is subject to a reduction for the remainder of the total outstanding reduction period¹.

Note 1: All sanctions run consecutively, i.e. one sanction period follows immediately after the other.

1 ESA Regs 13, reg 55(1)

Example

Judy is entitled to ESA and has a 40 day reduction period imposed on the award which is due to run until 7.1.15.

On 3.11.14 Judy starts full time work which is not exempt work, and the DM treats her as not having LCW. Judy's award terminates on 2.11.14.

Judy reclaims ESA on 1.12.14 as she found the job too difficult to manage due to her health problems. A 38 day sanction is imposed on her new award for the remaining outstanding reduction period.

V7191 – V7195

Award terminates before determination made

V7196 If an award of ESA terminates

1. before the DM determines that the award will be subject to a reduction **and**
2. that determination is made **after** the claimant becomes entitled to a new award of UC¹

the reduction period in relation to that failure is to have effect as if the determination had been made on the day **before** the previous award of UC terminated².

Note 1: In effect the decision to sanction is delayed or 'reserved' because the claimant does not have a current award of ESA, but any time away from benefit is treated as served towards the reduction period if a sanction is appropriate when the claimant makes a further claim for ESA³.

Note 2: The date the reduction period starts will depend on whether the claimant has already been paid ESA before the determination is made – see V7185⁴.

1 ESA Regs 13, reg 55(2); 2 reg 55(3)(a); 3 reg 55(3)(b); reg 54

Example

Josie makes a new claim for ESA on 16.10.14. Her previous award of ESA terminated on 30.9.14 when she found work. When her previous award terminated there was an outstanding determination for a failure to take part in a WFI on 17.9.14. The DM determines that a 42 day reduction period would have been appropriate (14 days up to the date ESA ended + 28 day fixed period reduction). The reduction period begins on 29.9.14, the day before the previous award terminated. Josie will serve a 25 day reduction period on her new award of ESA.

V7197 – V7199

Suspension of a reduction where a fraud penalty applies

V7200 A reduction period for a sanctionable failure is suspended for any period during which a fraud penalty also applies to that award of ESA¹.

Note: For detailed guidance on fraud penalties see ADM Chapter B2 (Restrictions on payment of benefit). For the definition of sanctionable failure, see V7010.

1 ESA Regs 13, reg 56(1); WR Act 07, s 11J; SS Fraud Act 01, s 6B & 7

V7201 The reduction

1. ceases to have effect on the day on which the period of the fraud penalty begins **and**
2. begins again on the day after that period ends¹.

1 ESA Regs 13, reg 56(2)

Example 1

On 8.12.14 Mo fails without good reason to comply with a work preparation requirement and the DM decides to impose a low-level sanction for a reduction period of 9 days (2 days non-compliance, followed by a 7 day fixed period) for a first low level failure.

Mo already has a fraud penalty imposed on his ESA of 26 weeks which is due to expire on 4.3.15. The reduction period is suspended and can be imposed from 5.3.15.

Example 2

Mary has a 30 day reduction period imposed on her ESA award from 6.4.15. On 15.4.15 a fraud penalty of 26 weeks is imposed on her award of ESA. The reduction period is suspended from 15.4.15 – 13.10.15. A 21 day reduction period, the balance of the reduction period still to be served, will be imposed from 14.10.15, the day after the fraud penalty ends.

V7202 – V7209

When a reduction is to be terminated

V7210 A reduction imposed for a sanctionable failure will be terminated where, since the date of the most recent sanctionable failure which resulted in a reduction being imposed, the claimant has been in paid work for

1. a period of at least 26 weeks **or**
2. more than one period of employment where the total of those periods amounts to at least 26 weeks¹.

Note: A claimant is in paid work where their weekly earnings are at least equal to 16 x NMW².

1 ESA Regs 13, reg 57(1); 2 reg 57(3); NMW Regs

V7211 The termination of the reduction has effect from the beginning of the

1. benefit week in which the conditions in V7210 are satisfied **or**
2. first benefit week in relation to any subsequent award where the conditions in V7210 are satisfied outside a period of entitlement to UC¹.

1 ESA Regs 13, reg 57(2)

V7212 – V7299

Amount of reduction

Introduction

V7300 This section gives guidance on the

1. amount of reduction for each benefit week **and**
2. daily reduction rate.

V7301 – V7304

Amount of the reduction for each benefit week

V7305 Where it is determined that an award of ESA is to be reduced because of a sanctionable failure, the amount of the reduction for each benefit week in respect of which a reduction has effect is calculated as follows¹

1. take the number of days in
 - 1.1 the benefit week **or**
 - 1.2 if lower, in the total outstanding reduction period (see V7061)deducting any days in that benefit week for which the reduction is suspended (see V7200)
2. multiply the number of days at **1.** by the daily reduction rate (see V7310 et seq)
3. deduct the amount produced from **2.** from the amount of the award of ESA for the benefit week.

Note: For detailed guidance on amounts see ADM Chapter V1.

1 ESA Regs 13, reg 58

V7306 – V7309

Daily reduction rate

V7310 Unless V7311 or V7312 applies, the daily reduction rate is the personal rate appropriate to the claimant's age

1. multiplied by 52 **and**
2. divided by 365¹.

Note: The daily amount calculated is rounded down to the nearest 10 pence².

1 ESA Regs 13, reg 59(1); 2 reg 59(2)

Example

Brad, who is aged 23, is awarded ESA. The DM determines that Brad had no good reason for not taking part in a WFI, and a 40 day reduction of ESA is imposed, including a 28 day fixed period reduction as this is his third failure in a year.

The daily rate of reduction is £8.00 (£56.80 x 52 ÷ 365).

The first benefit week for which a reduction can be imposed is from 13.3.15.

The amount of the reduction for that week and the four weeks following is calculated as the number of days in the benefit week i.e. 7 days x £8.00 (the daily reduction rate) = £56.00.

The amount of the reduction for the week beginning 17.4.15 is calculated as the number of days of the total outstanding reduction period remaining i.e. 5 days x £8.00 (the daily reduction rate) = £40.00.

40% reduction applies

- V7311 The daily reduction rate is 40% of the rate set out in V7310 if at the end of the benefit week the claimant is¹
1. subject to work-focused interview requirement only² (i.e. they are subject to a lowest level sanction).
 2. subject to no work-related requirements³ because they are
 - 2.1 a responsible carer for a child under the age of 1⁴ or
 - 2.2 a responsible foster parent of a child under the age of 1⁵ or
 - 2.3 an adopter and it is 52 weeks or less since
 - 2.3.a the date in which the child was placed with the claimant or
 - 2.3.b if the claimant asks for the 52 weeks to start from a date within 14 days before the child was expected to be placed⁶ or
 - 2.4 within 11 weeks before or 15 weeks after confinement⁷ or

Note 1: The daily amount calculated is rounded down to the nearest 10 pence⁸.

Note 2: For detailed guidance on work-related requirements see ADM Chapter U5.

1 ESA Regs 13, reg 60(1); 2 WR Act 07, s 11E; 3 s 11D; 4 11D(2)(c); 5 ESA Regs, reg 47(1)(b); 6 reg 47(1)(c); 7 reg 47(1)(f) & (g); 8 reg 59(2)

Nil reduction applies

- V7312 The daily reduction rate is nil if at the end of the benefit week the claimant is subject to no work-related requirements because they have LCW and LCWRA¹.

Note 1: This does not apply where the claimant just has LCW. A claimant has to have both LCW and LCWRA in order for a nil reduction to apply.

Note 2: For detailed guidance on work-related requirements see ADM Chapter U5.

1 ESA Regs 13, reg 60(2)

V7313 – V7348

ESA and UC sanctions

Dual entitlement to UC and ESA

V7349 Where

1. the claimant is entitled to both UC and ESA **and**
2. a sanction is appropriate

The sanction will be applied against UC only¹.

1 ESA Regs 13, reg 42(3)

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

ESA sanction – claimant entitled to UC

V7350 Where the claimant

1. the claimant is entitled to ESA **and**
2. a low or lowest-level sanction is imposed **and**
3. the claimant becomes entitled to UC **and**
4. the claimant remains entitled to ESA

any reduction ceases to apply to ESA¹. Instead, the reduction is applied to UC². See ADM Chapter K7 for further guidance.

1 WR Act 07, s 11J; ESA Regs 13, reg 43; 2 UC Regs, reg 112 & Sch 11

V7351 – V7354

UC sanction – claimant entitled to ESA

V7355 Where

1. the claimant's award of UC is terminated **and**
2. a higher, medium, low or lowest-level sanction is imposed¹ **and**
3. the claimant is entitled to ESA

any reduction of the UC award is applied to the ESA award².

1 WR Act 12, s 26 & 27; 2 ESA Regs, reg 61(1) & (2)

Period of the reduction

V7356 Where V7355 applies, the period for which ESA is reduced is the number of days for which the UC sanction applied after deducting any days which

1. have already resulted in a reduction of the amount of UC¹ **or**
2. fall after the last day of UC entitlement and the first day of ESA entitlement².

1 UC Regs, reg 102 – 104; 2 ESA Regs 13, reg 61(3)

Daily reduction rate

V7357 Where V7355 applies, the daily reduction rate for ESA is calculated in the same way as for an ESA sanction¹. See V7310 et seq for further details.

1 ESA Regs, reg 61(4)

Amount of reduction

V7358 Where V7355 applies, the amount of the reduction of ESA is the number of days in V7356 x the daily reduction rate in V7357¹.

1 ESA Regs, reg 61(5)

V7359 – V7999

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