

STEWARTS
THE LEGAL SERVICE

EMPLOYMENT AND SUPPORT ALLOWANCE



Employment and Support Allowance

Employment and Support Allowance (ESA) is paid to claimants who have limited capability for work because of their sickness or disability. An individual cannot receive ESA whilst in receipt of Statutory Sick Pay, Statutory Maternity Pay or Jobseeker's Allowance.

There are two type of ESA:

New Style ESA

- This is a non-means tested benefit which is based on National Insurance contributions. This means that you must have paid sufficient National Insurance contributions in one of the previous two tax years. You must also have been paid or been credited with National Insurance contributions in each of the previous two tax years.
- You may be credited with National Insurance contributions where you have carer status through receipt of carers' allowance.
- You can check your National Insurance record online at www.gov.uk/check-national-insurance-record
- New Style ESA is paid regardless of your partner's circumstances.

Income-related ESA

- This is a means-tested benefit. The amount you receive depends on your (and your partner's) income and capital. You will not qualify for income related ESA if you have savings of over £16,000.
- Universal Credit has replaced income-related ESA so no new claims can be made unless you are in receipt of a benefit with a severe disability premium.

Criteria

The assessment phase

The first 13 weeks of the claim is the "assessment phase". During the assessment phase, you will undergo a "work capability assessment" to determine whether you have limited capability for work.

During the assessment phase, ESA is paid at the basic rate.

The work capability assessment

There are two elements to the assessment:

- The limited capability for work test.
- The limited capability for work related activity test.

Following the assessment, you will receive a decision on your eligibility. There are three possible outcomes:

1. Fit for work

This will be the result where the claimant scored under 15 points. They will not be entitled to ESA.

2. Limited Capability for Work

This will be the result where the claimant scored 15 points. The claimant will have been deemed not fit to work but fit enough to engage with the Jobcentre Plus. They will therefore be required to attend interviews and training and ensure that their CV is up-to-date. If they do not engage then sanctions can be imposed.

3. Limited Capability for Work Related Activities

Where the claimant scored 15 or more points, they will be placed in the “support group” and will be deemed not well enough to work or attend interviews or training. Therefore, claimants in this category do not have to attend the Jobcentre Plus.

Rate

New Style ESA is paid at three levels:

- The basic rate is paid during the assessment phase and at the same rate as Jobseeker's Allowance.
- Work-related activity group rate.
- Support group rate.

You may be entitled to additional payments if you qualify for income-related ESA.

You cannot claim New Style if you are aged 16-17. If you are placed in the work-related activity group, you will only receive New Style ESA for 365 days. If your New Style ESA ends, you may still be eligible for

income-related ESA which would need to be applied for through a Universal Credit claim.

It is possible for your ESA claim to be backdated for up to three months before the date of your claim if you can demonstrate that you met the criteria during that time. You can apply for New Style ESA up to three months before your SSP ends.

Benefit cap

The benefits cap limits the amount of benefits that most people aged 16 to 64 can get. The cap applies to the total amount members of your household get from specified benefits, including ESA (unless you are in the support group).

However, you will not be subject to the benefit cap if someone in your household qualifies for Working Tax Credit or receives Disability Living Allowance, Personal Independence Payments, Attendance Allowance, Industrial Injuries Benefits, ESA (support group only), War Widow's Pension, War Pension, Armed Forces Compensation Scheme Payments or Independence Payments.

How to claim

You will need to apply for New Style ESA online. New claims can be started at www.apply-new-style-employment-support-allowance.service.gov.uk. If you are not able to apply online or are applying as an appointee, you can use the numbers below.

Telephone: 0800 328 5644

Textphone: 0800 328 1344



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Stewarts, 5 New St Square,
London EC4A 3BF
Telephone: +44 (0)207822 8000
Fax +44 (0)207822 8080