

New style Employment and Support Allowance and Jobseeker's Allowance (contribution-based)

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Introduction

The Government supports the principle that people should be able to access financial help after paying into the National Insurance contributions scheme. Therefore, both contribution-based Employment and Support Allowance (ESA) and Jobseeker's Allowance (JSA) remain following the introduction of Universal Credit.

In order to enable Universal Credit and contribution-based JSA or ESA to be paid together, a “new style” of ESA and JSA has been introduced. The new style benefits consist of a contribution-based element only, which means that they can be paid regardless of whether a claimant is also entitled to Universal Credit or not. Claimants can't have entitlement to both Universal Credit and Legacy (“old style”) versions of ESA and JSA, because these benefits both include contribution-based and income-based elements.

Universal Credit and new style ESA or JSA can be claimed, and paid, alongside each other. New style ESA and JSA are also payable where claimants do not qualify for Universal Credit, but satisfy the conditions of entitlement for these contribution-based benefits. For example, claimants who don't qualify for Universal Credit, because they have capital over £16,000, might still qualify for

new style ESA or JSA. Claimants, who want to apply for new style ESA or JSA, will have to do so separately. Claimants don't need to have made a claim to Universal Credit in order to make a claim to new style ESA or JSA.

Claimants should be made aware that one of the benefits of claiming new style ESA and JSA is that, if the benefit is awarded, they will be credited with a Class 1 National Insurance (NI) credit. This is true even when they are also entitled to Universal Credit, for which a Class 3 NI credit is normally awarded. Class 1 NI credits count towards the State Pension, Bereavement Benefits and contribution-based benefits, whereas Class 3 NI credits only count towards the State Pension and Bereavement Benefits.

Class 1 NI credits are also credited when a claimant meets the entitlement conditions for a new style award but no benefit is being paid, for example if an occupational pension has reduced their entitlement to nil. However, no National Insurance contribution will be credited if the claimant's award of new style JSA has been sanctioned.

Other key points are that:

- the contribution conditions that a claimant needs to satisfy to be entitled to new style ESA or JSA are exactly the same as for old style ESA and JSA ([see "Entitlement" below](#))
- the conditionality structure of new style ESA and JSA differs slightly from that of old style ESA and JSA and is similar to Universal Credit
- new style ESA and JSA are delivered on the JSA Payment system (JSAPS), while Universal Credit is delivered on the Universal Credit Full Service (UCFS) system
- unlike Universal Credit, new style ESA and JSA count towards taxable income

The following sections explain how new style ESA and JSA work and about the different types of claim.

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New style Jobseeker's Allowance

Definition

New style JSA:

- is for people who are actively looking for full-time work but don't have a job, or have a job and work for less than 16 hours per week
- can be paid on its own or with Universal Credit ([see 'Dual claims' below](#))

When dealing with new style JSA only claims the appropriate instructions should be followed (see New style JSA and ESA in UC full postcode areas)

Entitlement

To be entitled to new style JSA, claimants must first satisfy the two following contribution conditions. They must normally:

- have worked and paid, or be treated as having paid, Class 1 National Insurance contributions for 26 weeks (but not necessarily continuous weeks) in at least one of the two complete tax years before the start of the benefit year in which the claim is made, earning at least the lower earnings limit for that tax year in each of those weeks; and
- in each of those two tax years, have paid, be treated as having paid, or been credited with, Class 1 National Insurance contributions that amount to at least 50 times the Lower Earnings Limit.

A benefit year runs from the first Sunday (each year) in January and ends on the first Saturday of the next year.

The rules on the treatment of earnings or pension income and the contribution conditions are the same as for old style JSA.

Entitlement to new style JSA is limited to 182 days in any one job seeking period.

Work-related requirements

The work-related requirements for new style JSA claimants are the same as those for Universal Credit claimants who do not have limited capability for work.

The detail of what the claimant must do to meet their work-related requirements and the consequences of not doing so, are set out in a Claimant Commitment, which the claimant must accept as a condition of entitlement.

New style JSA claimants are required to be available for work and search for work for up to 35 hours a week. However, if the claimant has caring responsibilities or has a physical or mental impairment, the number of hours which they are required to be available can be reduced to a reasonable number of hours for their particular circumstance. For example, if the claimant is the responsible carer for a child under the age of 13, they would be expected to be available for the hours that the child attends school less the time it takes to travel from the school to the place of work (see Claimant Commitment Hub) for other easements that may apply).

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New style Employment and Support Allowance

New style ESA is paid to people with limited capability for work, because of illness or disability.

Entitlement

The contribution conditions for new style ESA are similar to those that apply to new style JSA, except that the Class 2 NI Contributions paid by self-employed people count for new style ESA, as well as the Class 1 NI Contributions paid by employees.

Entitlement to new style ESA is normally limited to 365 days in any one period of limited capability for work. However, the limit does not apply if the claimant is a member of the Support Group or for any period where they have limited capability for work-related activity.

Work-related requirements

The work-related requirements for new style ESA claimants are the same as those for Universal Credit claimants who have limited capability for work or limited capability for work or work-related activity. Like Universal Credit, some claimants will not have any work-related requirements.

The detail of what the claimant must do to meet their work-related requirements and the consequences of not doing so, are set out in their Claimant Commitment, which the claimant must accept as a condition of entitlement.

A Work Capability Assessment (WCA) will need to be completed for new style ESA claimants in exactly the same way as for Universal Credit. For ESA purposes, the claimant may, depending on the circumstances, be treated as having limited capability for work (and may therefore be entitled to benefit, where appropriate) until the WCA is completed, as long as they provide medical evidence.

Once the WCA is completed a decision maker will decide if the claimant has limited capability for work or limited capability for work-related activity and entitled to ESA. ESA ends if the claimant is found fit for work. Where a claimant makes a repeat claim for ESA having been previously found fit for work at a WCA, ESA will only be paid if the claimant has developed a new condition, or an existing condition has deteriorated significantly.

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Types of claims

There are three types of claim that can be made:

- Universal Credit only claims
- New style ESA or JSA only claims

- Dual claims (where both benefits are claimed simultaneously)

Universal Credit only claims

A claimant is not required to claim new style ESA or JSA, even if they may be entitled. However, claimants should be advised that they could lose entitlement to new style ESA or JSA if they delay claiming them. If they delay making a claim until the next benefit year, they may then fail to satisfy the relevant contribution conditions.

New style ESA or JSA will not be treated as a source of income for Universal Credit purposes, if it is not awarded and paid.

Claimants in receipt of Universal Credit only will receive a Class 3 credit (if eligible) unless they are already receiving another benefit which entitles them to a higher class of National Insurance credit.

New style ESA or JSA only claims

Claimants can choose to claim new style ESA or JSA on their own (whether or not they would be entitled to Universal Credit).

New style ESA and JSA are paid fortnightly according to the claimant's National Insurance number, in the same way as old style ESA and JSA awards.

Like Universal Credit, it is a condition of entitlement for new style ESA and JSA that the claimant accepts a Claimant Commitment, although exceptions can be made if:

- the claimant lacks the capacity to accept the Claimant Commitment
- there are exceptional circumstances for which it would be unreasonable to expect the person to accept a Claimant Commitment

The Claimant Commitment explains what the claimant must do to meet their work-related requirements, and the consequences of not doing so.

These requirements can be suspended for 13 weeks for victims of domestic abuse. Other exceptions to requirements being imposed include when a claimant is temporarily sick or recently bereaved. These exceptions are the same as for Universal Credit ([see Claimant Commitment Hub](#))

Any failure to follow the work-related requirements for new style ESA and JSA can result in a benefit sanction unless good reason for the failure is shown.

The sanctions for new style ESA and JSA are similar to those for Universal Credit, although there are some differences in the number of sanction levels for each benefit.

New style ESA and JSA sanctions do not apply for claimants who are also claiming Universal Credit (dual claims), as the Universal Credit sanctions will apply instead.

New style ESA or JSA only claimants will be awarded a class 1 National Insurance Credit.

Dual claims

A dual claim is where Universal Credit and new style ESA or JSA are claimed, and paid, alongside each other (this includes cases where the award of new style ESA and JSA is nil).

Claimants who have a dual claim will be awarded a Class 1 NI credit */

In dual claims, Universal Credit conditionality applies and the work-related requirements are managed through a Claimant Commitment. Failure to comply with the Claimant Commitment could result in only the claimant's Universal Credit being sanctioned.

Although, no work-related requirements apply, the claimant must still accept a Claimant Commitment relating to the new style ESA or JSA, as this remains a condition of entitlement. No conditionality or sanctions can be imposed through the new style ESA/JSA Claimant Commitment.

Effect of new style ESA and JSA on Universal Credit

To avoid duplication of benefit payments, new style ESA and JSA is taken into account as unearned income in Universal Credit. UCFS automatically calculates the amended Universal Credit payments from the details held in 'Other Benefits'.

The amount taken into account is the 'adjusted gross award' of new style ESA or JSA. This is the amount of the new style ESA or JSA award after earnings and occupational pensions have been taken into account but before any other deductions, for example overpayments.

When payment of new style ESA or JSA starts or ends in a Universal Credit assessment period, the actual number of days of ESA/JSA paid is taken into account. Other changes to the amount of new style ESA or JSA paid are taken into account using the 'whole month approach'. Under this approach, the Universal Credit award is adjusted by taking into account the new style ESA and JSA in payment at the end of the assessment period, and applying that to the whole of that assessment period.

Example of whole month approach:

If a claimant starts doing 3 hours work a week in the last week of their Universal Credit assessment period and earns £30 per week, their new style JSA will be reduced by £25 (£30 - £5 disregard = £25) from £73.10 to £48.10.

The amount of unearned income taken into account for Universal Credit in that assessment period will be £48.10 x 52 weeks divided by 12 months = £208.43 (which is less than the amount of JSA they actually received in that assessment period).

Conversely, if the same claimant then stopped work in the last week of the following assessment period, the amount of unearned income taken into account for Universal Credit in that assessment period will be £73.10 x 52 weeks divided by 12 months = £316.77 (which is more than the amount of JSA they actually received in that assessment period).

When both Universal Credit and new style ESA are in payment the same WCA is used.

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Claimants who work and receive new style ESA or JSA

New style ESA and JSA retain the old style ESA and JSA earnings, pension and payment rules, which are different from those for Universal Credit.

If a claimant starts part-time work or self-employment of less than 16 hours per week on average, they are required to self-report earnings and hours of work for their new style ESA or JSA claim.

Self-employed claimants with dual claims have to report their earnings for both Universal Credit and new style ESA or JSA. These details will need to be entered into both JSAPs and UCFS separately.

A claimant who is entitled to new style ESA who does any work (other than voluntary work) will normally be treated as not having limited capability for work and will lose their whole entitlement accordingly. However, there are some types of work that ESA claimants can do without losing their benefit entitlement, known more commonly as Permitted Work.

There are four categories of Permitted Work and separate rules cover the length of time that a claimant may undertake each category, and the amount they can earn.

If an ESA claimant starts work which is other than Permitted Work, or starts work which is Permitted Work but fails to follow the appropriate rules, their award of ESA will terminate. Similarly, if a JSA claimant starts work and earns more than their award of JSA plus the appropriate earnings disregard, they will not be paid any JSA. Claimants with dual claims may still be entitled to Universal Credit and the Universal Credit Work Allowance/ Earnings Taper will apply.

Claimants who have only claimed new style ESA and JSA may wish to claim Universal Credit in the above circumstances.

New style ESA and JSA – effect on waiting days

Waiting days may be applied at the start of an award of new style ESA or JSA, regardless of any past (or current) entitlement to Universal Credit, unless the claim is made within 12 weeks of the termination of a prescribed working-age benefit, or if other exceptions apply.

In contrast, if a claimant makes a claim to Universal Credit and is currently entitled to either old style or new style ESA or JSA, or has been so entitled in the last 3 months, they will not be subject waiting days.

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