Chapter K7: Effect of Employment and Support Allowance and Jobseeker's Allowance sanctions on Universal Credit

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Legislation Used in Chapter K7

Abbreviation	Full Title
WR Act (NI) 07	The Welfare Reform Act (Northern Ireland) 2007
JS (NI) Order 95	The Jobseekers (Northern Ireland) Order 1995
WR (NI) Order 15	The Welfare Reform (Northern Ireland) Order 2015
UC Regs (NI) 16	The Universal Credit Regulations (Northern Ireland) 2016 No. 216
ESA Regs (NI) 08	The Employment and Support Allowance Regulations (Northern Ireland) 2008 No. 280
ESA Regs (NI) 16	The Employment and Support Allowance Regulations (Northern Ireland) 2016 No. 219
JSA Regs (NI)	The Jobseeker's Allowance Regulations (Northern Ireland) 1996 No. 198
JSA Regs (NI) 16	The Jobseeker's Allowance Regulations (Northern Ireland) 2016 No. 218
UC (TP) Regs (NI) 16	The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 No. 226

Chapter K7: Effect of Employment and Support Allowance and Jobseeker's Allowance sanctions on Universal Credit

Introduction

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

1. is or was entitled to Employment and Support Allowance or Jobseeker's Allowance **and**

2. had a sanction imposed on the award of Employment and Support Allowance or Jobseeker's Allowance[1] **and**

3. becomes entitled to Universal Credit[2].

Note 1: In this Chapter references to Employment and Support Allowance or Jobseeker's Allowance mean new style Employment and Support Allowance or Jobseeker's Allowance[3]. See ADM Chapter M1 (Claims for Universal Credit) for guidance on the meaning of new style Employment and Support Allowance and Jobseeker's Allowance.

Note 2: See ADM Chapters V8 and S6 for guidance on where a Universal Credit claimant who has had a sanction imposed becomes entitled to Employment and Support Allowance or Jobseeker's Allowance.

1 WR Act (NI) 07, sec 11J; JS (NI) Order 95, art 8J & 8K; 2 WR (NI) Order 15, Sch 5, para 2 & 3; UC Regs (NI) 16, reg 109 & Sch 11; 3 reg 2; ESA Regs (NI) 16; JSA Regs (NI) 16; UC (TP) Regs (NI) 16, reg 2(1)

K7002 See ADM Chapter M2 (Effects of transition to Universal Credit) for guidance on Universal Credit sanctions where a claimant entitled to

1. contribution-based Employment and Support Allowance or income-related Employment and Support Allowance[1] **or**

2. contribution-based Jobseeker's Allowance or income-based Jobseeker's Allowance[2]

under pre–2016 legislation becomes entitled to Universal Credit[3].

1 ESA Regs (NI) 08; 2 JSA Regs (NI) 16; 3 UC (TP) Regs (NI) 16

Dual entitlement to Universal Credit and Employment and Support Allowance/Jobseeker's Allowance

K7003 Where

1. the claimant is entitled to both Universal Credit **and**

1.1 Employment and Support Allowance[1] **or**

1.2 Jobseeker's Allowance[2] **and**

2. a sanction is appropriate.

The sanction will be applied against Universal Credit only.

1 ESA Regs (NI) 16, reg 42(3); 2 JSA Regs (NI) 16, reg 5(3)

Note: For guidance on sanctions in Universal Credit see ADM Chapters K1 - K9

K7004 – K7009

Moving Employment and Support Allowance and Jobseeker's Allowance sanctions to Universal Credit

K7010 Where a claimant

1. is or was entitled to Employment and Support Allowance or Jobseeker's Allowance **and**

2. had a sanction imposed on the award of Employment and Support Allowance or Jobseeker's Allowance[1] **and**

3. becomes entitled to Universal Credit

the Employment and Support Allowance or Jobseeker's Allowance sanction is applied to the Universal Credit award[2].

Note: See ADM Chapter V7 for guidance on Employment and Support Allowance sanctions, and Chapter S5 for guidance on Jobseeker's Allowance sanctions.

1 WR Act (NI) 07, sec 11J; JS (NI) Order 95, art 8J & 8K;
2 UC Regs (NI) 16, Sch 11, para 1(1) & (2) and 2(1) & (2)

Period of sanction

K7011 The period of the sanction is the number of days which applied to the claimant under Employment and Support Allowance[1] or Jobseeker's Allowance[2] rules excluding

1. any days which have resulted in a reduction of the amount of Employment and Support Allowance or Jobseeker's Allowance **and**

2. if the Employment and Support Allowance or Jobseeker's Allowance award has terminated, any days

2.1 after the date that award was terminated **and**

2.2 before the date on which the Universal Credit award begins.

The period is added to the Universal Credit total outstanding reduction period[3].

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

1 ESA Regs (NI) 16 , reg 52 & 53; 2 JSA Regs (NI) 16, reg 20-22; 3 UC Regs (NI) 16, Sch 11, para 1(3) & 2(3)

Example 1

Tess is entitled to Employment and Support Allowance and is placed in the work related activity group. Her award terminates on 11.6.18 as she has had 365 days entitlement to Employment and Support Allowance. At the time the award ended

there was a low–level sanction including a 7 day fixed period reduction, imposed due to a failure to attend a skills assessment course on 21.5.18. The period of reduction began on 4.6.18, and the open period ends on 11.6.18, the date the Employment and Support Allowance award ends. Tess also fails to attend an interview on 9.6.18 to check on her work preparation progress. Tess has not agreed to attend the interview, and the decision maker has not determined whether a reduction should be imposed for the failure at the time the Employment and Support Allowance award ends.

Tess claims Universal Credit on 11.6.18. The Universal Credit award is reduced for a period of 7 days, the fixed period low–level sanction for which no Employment and Support Allowance days of reduction were made. No reduction of Universal Credit is made for the second failure.

Example 2

Nick is entitled to Jobseeker's Allowance, and the decision maker has determined that a medium–level sanction of 28 days should be imposed as Nick has not shown that he had taken all reasonable action to look for paid work. The reduction began on 17.4.18.

On 2.5.18 Nick is joined by his partner Lisa, and they claim Universal Credit as joint claimants from that date. Their Universal Credit award is reduced for 13 days, the balance of the total period of 28 days.

Example 3

Winston is entitled to Jobseeker's Allowance. His partner Pearl is in full-time employment. Winston refuses to undertake a specified work placement with a retail company as part of his work preparation requirement. This is his second higher–level sanctionable failure in 3 months. The decision maker imposes a higher–level sanction of 182 days, which begins on 7.3.18. Winston's award of Jobseeker's Allowance ends on 29.4.18.

On 9.7.18 Winston and Pearl claim Universal Credit, after Pearl's employment contract ends. Winston's Jobseeker's Allowance award was reduced for 54 days, and there are 71 days between the end of the Jobseeker's Allowance award and the beginning of the Universal Credit award. A higher–level sanction period of the remaining 57 days is imposed on Winston and Pearl's award of Universal Credit.

K7012 – K7019

Amount of reduction

K7020 The amount of the reduction moved from Employment and Support Allowance or Jobseeker's Allowance to Universal Credit is calculated for each assessment period in accordance with the Universal Credit rules[1]. See ADM Chapter K9 for guidance on the amount of Universal Credit reductions, including the daily rate.

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

1 UC Regs (NI) 16, Sch 11, para 1(4) & 2(4); reg 107 & 108

Example 1

Mary is entitled to Jobseeker's Allowance and has a medium–level sanction of 91 days imposed from 16.7.18 when she refuses to be available for work for less than a specified amount of pay. The daily reduction rate is £10.40 [prescribed amount of £73.10 x 52 ÷ 365 rounded down to the nearest 10 pence].

Mary joins her partner Peter, who is entitled to Universal Credit, on 22.9.18. The remaining 23 days of the Jobseeker's Allowance reduction are applied to the Universal Credit award. The daily reduction rate is £8.20 [(standard couple allowance of £498.89 ÷ 2) x 12 ÷ 365 rounded down to the nearest 10 pence].

Example 2

Simon is entitled to Employment and Support Allowance and has a low–level sanction imposed after he fails to take part in a work-focused interview on 9.11.17. He phones up on 14.11.17 and agrees to attend a work-focused interview on 20.11.17. The reduction, which includes a 5 day reduction for the period 9-13.11.17, and a 7 day fixed period, begins on 22.11.17, and is due to end on 3.12.17. The daily reduction rate is £10.40 [prescribed amount of £73.10 x 52 ÷ 365 rounded down to the nearest 10 pence].

On 27.11.17 Simon moves out of his parents' house into rented accommodation, and claims Universal Credit. The remaining 7 days of the Employment and Support Allowance sanction is applied to the Universal Credit award. The daily reduction rate is £10.40 [standard single person's allowance of £317.82 x 12 ÷ 365 rounded down to the nearest 10 pence].

K7021 – K7029

Escalation

K7030 Where

1. an Employment and Support Allowance or Jobseeker's Allowance sanction becomes a Universal Credit sanction as in K7010 et seq **and**

2. there is a later sanctionable failure **and**

3. the Employment and Support Allowance or Jobseeker's Allowance sanction is equivalent to a Universal Credit sanction with the same reduction period

the Employment and Support Allowance or Jobseeker's Allowance sanction is treated as a Universal Credit sanction for the purposes of calculating the reduction period[1].

Note: See ADM Chapters K3 (Higher–level sanctions), K4 (Medium–level sanctions), K5 (Low–level sanctions) and K6 (Lowest–level sanctions) for guidance on Universal Credit sanctionable failures and reduction periods. See ADM Chapters V8 and S5 for guidance on Employment and Support Allowance and Jobseeker's Allowance sanctions.

1 WR (NI) Order 15, art 31 & 32; UC Regs (NI) 16, Sch 11, para 3

Example 1

Ruth is entitled to Jobseeker's Allowance. A higher–level sanction of 91 days is imposed in June 2017 when she failed for no good reason to apply for a job as required by her adviser as part of a work search requirement.

Ruth claims Universal Credit in October 2017 when her award of Jobseeker's Allowance ends. Ruth is required to take part in a specified work scheme as part of a work preparation requirement, but refuses to join the scheme. The decision maker determines that Ruth had no good reason for the failure, and imposes a reduction. As this sanctionable failure is at the same level as the Jobseeker's Allowance higher level failure in June and is within the 365 days immediately before the June failure, then the reduction period for the current sanctionable failure escalates to 182 days.

Example 2

Tom is entitled to Employment and Support Allowance and falls in the work-focused interview and work preparation requirement group. On 7.9.18 he failed to attend an initial work-focused interview, and had no good reason for the failure. He phones to rearrange the work-focused interview appointment on 12.9.18. A low–level reduction period of 11 days (5 days for the period 7-11.9.18 and a 7 day fixed period) is imposed for the sanctionable failure.

Tom is referred to Steps 2 Success. He is required to produce his CV by the time of his next interview with the work coach on 19.9.18, but when he attends says he forgot to prepare the CV. The decision maker imposes a further low–level reduction including a 14 day fixed period, as this is within 365 days of a previous low–level sanctionable failure.

When his Employment and Support Allowance terminates after 365 days on 4.5.19, Tom claims Universal Credit. On 23.7.19 he fails to attend a follow-up interview with the advisor to check on his progress as part of his work preparation requirement. The decision maker determines that this is a low–level sanctionable failure, and imposes a reduction period including a 28 day fixed period, as this is within 365 days of a previous Employment and Support Allowance low–level sanctionable failure for which a 14 day reduction period had been imposed.

K7031 – K7999

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