



Employee protection technical bulletin 3

Market update – Welfare Reform

In an effort to reduce the number of people claiming incapacity benefit, the previous Labour government replaced state incapacity benefit with a new employment support allowance (ESA). These changes were effective from 27 October 2008 for all new claimants after that date.

Between October 2010 and March 2014 existing incapacity benefits claimants (those on incapacity benefit, severe disablement allowance and income support on disability grounds) will be reassessed under the Employment and Support Allowance (ESA) and the Work Capability Assessment (WCA) instead of the Personal Capability Assessment.

In order to qualify for ESA, claimants need to pass a government work capacity assessment (WCA) for mental and physical ability; including compulsory attendance of work focus interviews during the assessment phase, which starts when SSP ceases after 28 weeks of absence. If successful, ESA (together with an additional benefit for those with severe illness/disability) will be payable. If unsuccessful, claimants have to apply for a job seekers allowance.

The primary objective of this legislation was to support and encourage presenteeism; keeping people in work and/or returning them to work as soon as practical.

The Coalition Government – October 2010 Spending Review

In light of Labour being displaced from power in May 2010, the Coalition Government set about reviewing the whole state welfare and benefit system, with the issue of getting those that can work, back into work, being their main focus. Some changes will take effect immediately, but others will change in the future.

The main future change going to take place is a “universal credit” to replace the following current benefits:

- ◆ Income Support
- ◆ Income based Job Seekers Allowance
- ◆ Income related Employment Support Allowance
- ◆ Housing Benefit
- ◆ Child Tax Credit
- ◆ Working Tax Credit

The universal credit will be designed to provide a basic income for people out of work and make work pay as people move into and progress in work. It will be dependent on family circumstances. Within universal credit, the Government state that the key mechanism for making work pay, will be levels of “tapers” and “disregards”. The latter will decrease as the person earns more or will be set higher if they do not earn enough. Thus making it pay for a person to undertake just a few hours of work, if that is all that they can manage or is available to them in the short term.



The universal credit will consist of a basic personal amount plus additional amounts where appropriate to take into account: disability, caring responsibilities, housing costs and children. The Government plans to migrate recipients from the current benefits and tax credits systems onto the universal credit starting in 2013 and finishing in the next Parliament.

Disability Benefits

The Government concedes that the changes Labour made in 2008 have worked well and they say they are committed to supporting disabled people to participate fully into society, and this include remaining in employment or returning to employment after illness.

As you may be aware there are currently two types of ESA:

- ◆ **Contributory:** Where enough National Insurance Contributions have been paid. (This is not means tested.)
- ◆ **Income Related:** If a person has not paid enough National Insurance Contributions or does not have enough savings. (This is means tested.)

Everyone assessed as having limited capability for work qualifies for the ESA and receives the basic rate, equivalent to the Jobseeker's Allowance for single people over age 25. In addition a person will get either the Work-Related Activity Component (WRAC) if they have limited capability for work, or the higher support component if they are more disabled.

Currently the WRAC is conditional upon the person trying to get back into work but there is no time limit for receipt of the ESA. The Government is now placing a maximum 12 month time limit on this benefit.

Although no statement has been made on what happens after this, potentially if at the end of 12 months someone is not in work, they will move onto Jobseeker's Allowance and lose the WRAC and they may qualify for income-related benefits.

- ◆ Please note that Disability Living Allowance remains outside of the Universal Credit.

How does this affect my Group Income Protection Scheme?

The vast majority of Group Income Protection Schemes have an offset for state benefits i.e. 75% minus the ESA and WRAC, or notional single person's state incapacity benefit.

It is evident that fewer people will be eligible for employment support allowance due to the new testing systems in place but it will also now be limited to 12 months. Thus the benefit of having a state offset is eroded; therefore it may be prudent to remove this offset from your Income Protection Scheme.

You may also want to consider a "fully integrated" income protection scheme which will take into account all benefits received by a person, from the state.



Notes

This is a guide only and you are advised to seek your own legal guidance before taking any action.

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11/225/24 February 2011