

Technical factsheet T3 – Current work: Permitted Work, Voluntary Work and Test Trading rules

This factsheet explains when Employment and Support Allowance (ESA) customers are allowed to work. It also explains how the ESA rules differ from the Incapacity Benefit (IB) rules.

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Working and Employment and Support Allowance (ESA)

■ General – Can people work under ESA?

ESA is a benefit that people can get because they have limited capability for work because of illness or disability. In general, if they do some paid work their benefit has to stop. However, there are some types of work that a person can do and still get ESA.

Permitted Work enables customers to attempt some work whilst still claiming their ESA in readiness or preparation for returning to full-time employment. Permitted Work rules apply equally to both employed and self-employed customers.

■ Advantages of work – What are the advantages for customers to attempt some work whilst still claiming ESA?

The advantages for customers undertaking some work are:

- It prepares them for returning to full time work
- It keeps them in touch with the job market, and
- It allows them to be socially included.

■ What type of work is a customer allowed to do under ESA?

The main categories of work are:

- Permitted Work
- Voluntary Work

There are other types of work a customer claiming ESA may undertake, such as being a panel member of an Appeal Tribunal or the Disability Living Allowance Advisory Board. There is also Approved Work such as a Work Trial arranged by the Jobcentre Plus Office, Special Occupations or Prescribed Payments for customers carrying out local or public functions

■ **Earnings verification –
Will DWP contact employers to verify earnings?**

With ESA an employer should not normally be contacted to verify details given by the customer. Alerting an employer to the fact that the customer may have Limited Capability for Work (LCW) may prejudice their employment and this does not support the Government's aim.

The customer will be required to provide all necessary verification such as wage slips. Employers must pay at least the National Minimum Wage (NMW). If earnings are less than the NMW details of the employer could be sent to HMRC for investigation.

Permitted Work rules

■ What is meant by Permitted Work? What are the three categories?

Permitted work is a term used to describe types of paid work that can be done while being paid ESA. The three categories of Permitted Work are:

- Permitted Work Lower Limit (PWLL)
- Supported Permitted Work (SPW)
- Permitted Work Higher Limit (PWHL) and

■ Permitted Work Lower Limit (PWLL) – How does a customer qualify?

To qualify for the Permitted Work Lower Limit (PWLL) category the customer will need to fulfil the following criteria:

- The customer must earn no more than the PWLL earnings limit, which is £20.
- The customer must notify DWP of all changes to their work.
- The customer must notify DWP that they are working.

In Addition to the above:

- There is no restriction on the number of hours worked.
- There is no restriction on how long this type of work can be done.
- The customer can do more than one job but total earnings must not exceed the earnings limit.

■ Supported Permitted Work (SPW) – How does a customer qualify?

To qualify for the Supported Permitted Work (SPW) category, the customer must satisfy the following criteria:

- The customer must notify the Department.
- The customer must not earn more than the SPW earnings limit, which is £92.00.

- The customer must be getting ongoing regular support by a support worker, someone who is employed by a Public or Local Authority, or a Voluntary Organisation whose job is specifically to arrange work for people with disabilities.
- The customer must notify any changes in their employment, particularly if their support comes to an end.

In Addition to the above:

- There is no restriction on the number of hours worked
- There is no restriction on how long this type of work can be done.

■ What is a support worker?

A support worker is someone who is employed wholly to find or provide work for disabled people and must direct and oversee the performance of the worker regularly.

The frequency of support will be dependant on the individual requirements although contact once every six months would be the very least amount expected and the supervision must be more than the normal supports put in place by employers.

The support worker will initially have close involvement with the day-to-day routine of the worker. The support worker may be employed by the same employer as the customer and this is acceptable providing the criteria for allowing SPW is met.

It is not sufficient that the employer provides the support in the form of a buddy or mentor in the workplace. SPW can also be part of a treatment programme done under medical supervision while the customer is an in-patient or is regularly attending as an out-patient of a hospital or similar institution. If a customer loses their support then you will need to consider whether or not they fall into one of the other Permitted Work categories.

■ Permitted Work Higher Limit (PWHL) – How does a customer qualify?

PWHL is done during a 52 week period which is known as a Permitted Work Period (PWP). The period of work is fixed for 52 weeks from the date the work commences and can not be extended. Once a PWP has started it runs for the full 52 weeks. It will not be extended to take account of weeks where no work is done or stopped when employment ends. For example, a customer starts work on 1 November 2008 and has a two week holiday over the Christmas period. The fixed period cannot be adjusted to take account of the holidays taken.

To qualify for the Permitted Work Higher Limit (PWHL) the customer will need to fulfil the following criteria:

- The customer must earn no more than the PWHL earnings limit (which is £92.00).
- The customer must work for less than 16 hours a week on average.
- The customer can change jobs during the fixed period but must advise all changes.
- The customer can do more than one job but the aggregated earnings from both jobs must not exceed the PWHL earnings limit.

■ Earning limits – What are the ESA Earning Limits?

The limits are:

- PWLL earnings limit: £20 (the NMW will restrict the hours worked)
- PWHL and SPW earnings limit: £92.00

The earnings limit is updated in line with the NMW from 1 October each year and not with the annual uprating exercise which takes place in April each year.

■ What is the effect of Permitted Work on ESA?

The earnings from permitted work will not affect the amount of ESA that is payable. However, ESA is a taxable income and therefore the customer's work must be notified to HMRC.

PWLL and SPW will be reviewed by the Claims Maintenance Section every two years. It is important that the Personal Adviser (PA) is told that the customer is doing some work, even SPW.

Because the customer is allowed to earn up to the earnings limit for the Permitted Work category into which they fall without it affecting their ESA they cannot also have an earnings disregard applied to those earnings.

■ What is an earnings disregard?

An earnings disregard is an amount of earnings that can be ignored before the balance is taken into account. Under ESA this disregard can only apply to the customer's partner and therefore will only apply to customers claiming ESA(IR).

If a customer is receiving ESA(IR) and does not receive any earnings under the Permitted Work rules the maximum disregard that can be applied to any earnings that the partner may have is £20.

ESA(IR) will cease if a partner's earnings, with the appropriate disregard, exceeds entitlement. The customer can receive ESA(C) if entitled.

■ **Number of jobs –**

Is there a limit to the number of jobs that a customer can have?

A customer can have any number of jobs so long as they do not exceed the maximum number of hours allowed. All hours and earnings are added together.

■ **Housing Benefit –**

What is the impact of permitted work on Housing Benefit?

The Housing Benefit Review announced in the Budget will include a review of the way Permitted Work for those on contributory ESA is treated in Housing Benefit and Council Tax Benefit. Where a person retains entitlement to income-related ESA they will continue to receive full Housing Benefit and Council Tax Benefit.

■ **Are there any specific forms related to Permitted Work?**

When a customer enquires about Permitted Work form PW1 and leaflet PWA5JP are issued to the customer.

Notifying a customer's intention to undertake work

■ Notification – What is the process of notification?

When enquiring about doing some Permitted Work the customer is issued a form and a leaflet. The customer should complete the form with their identity details and full details of their intended employment. The form is then sent to the Benefit Delivery Centre (BDC) where it will be assessed.

The number of hours they work, the amount they earn along with any support worker details, if applicable, will determine the category of permitted work they fall into, if any.

■ Timing – When should the notification take place?

It is preferable that the customer inform DWP about any work they intend to do before they actually start working. However, if they start work before notifying DWP, DWP should be notified before the work ceases. With PWHL notification should be received before the 52 week fixed period comes to an end.

Other types of work

■ What are the voluntary work rules under Employment and Support Allowance (ESA)?

Voluntary work is work for a non-profit making organisation or person, for example charity work.

- Voluntary work cannot be done for a member of their family.
- A volunteer must not receive payment for work done, although they can be reimbursed for reasonably incurred expenses.
- There is no limit on the number of hours that can be spent on voluntary work.

■ Voluntary work – What are the advantages for customers undertaking voluntary work?

The advantages for customers undertaking voluntary work are:

- they can improve skills and therefore chances of getting paid work
- there is no effect on the customer's ESA
- they gain experience, skills and confidence, and
- they can make a difference to the community.

■ Voluntary work – What information will the customer have to provide when doing voluntary work?

Customers enquiring about voluntary work will be asked to provide the following information:

- the name of the organisation or person for whom they perform or intend to perform some work
- whether the work is being done for a member of their family (work done for family members is not considered as voluntary work)
- the date the work has commenced or will commence
- a brief description of the duties undertaken
- the number of hours and days worked
- full details of any payments, expenses or meals provided, and

- details of any other work being undertaken whether voluntary or paid.

All of that information can be provided in a letter, by interview or by telephone. Any reimbursement of meal expenses incurred as a result of voluntary activity is disregarded.

■ **What is Test Trading?** **What are the advantages for the customer?**

Customers who wish to undertake running their own business as self-employed can do so under one of the New Deal programmes. This is known as Test Trading and lasts for 26 weeks.

The only customers who can use New Deal under ESA at present are those who qualify for New Deal for Lone Parents (NDLP). Any other person wishing to participate in a self-employed business venture will need to do so under the Permitted Work rules.

The customer will discuss attempting Test Trading with their Personal Adviser (PA) who will ensure the customer is aware of the responsibility and reality of being self-employed. If the customer wishes to go ahead, the PA will organise an Expert Training Provider who will be contracted by the Department to help the customer through the process.

■ **Expert Training Provider –** **What is the role of the Expert Training Provider?**

The Expert Training Provider will advise the customer:

- what is involved
- discuss their business idea
- discuss the personal attributes needed to succeed, and
- offer one-to-one counselling and support to help the customer develop a business plan.

In discussion with their PA the customer will determine a date when they will start Test Trading.

The Expert Training Provider will ensure that prior to Test Trading the customer opens a business account that allows the provider to act as co-signatory on all cheques drawn from the account.

This ensures the customer accesses funds for business use only and not personal use.

■ What is the effect of Test Trading on ESA?

Customers on Test Trading are not classed as working but as being on Jobcentre Plus approved training. When the customer is ready to commence Test Trading they will agree a start date with their PA. They will then decide whether to continue claiming ESA or receive a Training Allowance.

The PA will notify the Benefit Delivery Centre (BDC) of the date the Test Trading is to start and whether or not Training Allowance is payable. The PA will notify the BDC of the date the Test Trading is to start and whether or not Training Allowance is payable. On receipt of the notification the Benefits Delivery Officer (BDO) will take one of the following actions.

If the customer decides to continue to receive ESA there is no income to take into account whilst the customer is test trading. When the control date matures they will contact the PA to ascertain whether or not the customer will be continuing to trade after the 26th week. If trading ceases then no further action is required. If trading continues the ESA claim will be closed from the end of the 26th week and the customer will be treated as being employed.

If the customer decides to receive a Training Allowance on receipt of notification from the PA the BDO will close the claim to ESA as the customer cannot receive both Training Allowance and ESA

Disclaimer

This leaflet is only a guide and does not cover every circumstance. We have done our best to make sure that the information in this leaflet is correct as of December 2008. It is possible that some of the information is over simplified, or may become inaccurate over time, for example because of changes to the law. Names in the examples have been used for illustrative purposes only. The rates mentioned in these factsheets are applicable to December 2008 and may change thereafter.