

EMPLOYMENT AND SUPPORT ALLOWANCE AND STUDYING



Child Poverty Action Group works on behalf of the one in five children in Scotland growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good.

We provide training, advice and information to make sure hard-up families get the financial support they need. We also carry out high profile legal work to establish and protect families' rights.

EMPLOYMENT AND SUPPORT ALLOWANCE AND STUDYING

This factsheet provides information about employment and support allowance, a benefit for people who are ill or disabled, as it applies to students. For more detailed information, including the handbooks mentioned in this factsheet, see '*Further information and advice*'. See also CPAG in Scotland's factsheet 'Benefits for disabled students'.

Note that income-related ESA is expected to be replaced by universal credit in the future.

BASIC FACTS

- Employment and support allowance (ESA) is a benefit for people who have 'limited capability for work'.
- ESA has an income-related part based on a means test and a contributory part based on national insurance (NI) contributions.
- Part-time students are eligible for both income-related and contributory ESA.
- Full-time students are eligible for contributory ESA, but can only claim income-related ESA if they are getting disability living allowance (DLA) or personal independence payment (PIP).

WHAT IS EMPLOYMENT AND SUPPORT ALLOWANCE

Employment and support allowance (ESA) is a benefit for people who are ill or disabled and are assessed as having 'limited capability for work'. People already claiming incapacity benefit or income support on incapacity or disability grounds when ESA was introduced continue to receive these benefits, although they are expected to be transferred to the ESA system in the near future.

ESA has two types - **contributory** and **income-related**. It is possible to receive one or both types of ESA.

Contributory ESA is for people who have paid national insurance (NI) contributions.

Income-related ESA is means-tested and is for people who are on a low income.

Note: in areas where universal credit has been fully rolled-out, you cannot make a new claim for income-related ESA - you have to claim universal credit instead.

WHO IS ELIGIBLE

To qualify for ESA you must meet certain **basic conditions**: you must be 16 or over (and under pension age); you must be in Great Britain; and you must not work, although some 'permitted work' is allowed (see CPAG's *Welfare Benefits and Tax Credits Handbook* for details). You must also have limited capability for work and satisfy the conditions for either contributory or income-related ESA or both (see below).

CONTRIBUTORY ESA

This type of ESA is time-limited to one year for most people, although the most severely disabled (those who are in the support group - see *Limited capability for work*, below, for what this means) can continue to get contributory ESA for as long as they stay in the support group.

Contributory ESA is not means tested, so it is not affected by any loans or grants you are eligible for. To qualify, you must have paid NI contributions.

You can claim after seven days ill health if you have paid enough NI contributions. To be eligible, you would usually have to have been working and paying NI contributions for the past 2 or 3 years. See CPAG's *Welfare Benefits and Tax Credits Handbook* for details.

CONTRIBUTORY ESA AND STUDYING

Contributory ESA can continue if you study part-time or full-time. You must continue to satisfy the medical test of limited capability for work. Note that starting a course may trigger the DWP to ask you to undergo a medical re-assessment, to check that you still qualify.

EXAMPLE

Rowan is disabled and starts a full-time non advanced course in August 2016, aged 18. She gets contributory ESA and is in the support group. Her course does not affect her ESA and her ESA continues.

INCOME-RELATED ESA

Note: in areas where universal credit has been fully rolled-out, you cannot make a new claim for income-related ESA – you have to claim universal credit instead. See CPAG's factsheet 'Universal credit and students' for more information.

Income-related ESA is means tested, so any student funding you receive may count as income and reduce your entitlement. You claim this together with your partner, if you have one, and any income they have will also affect how much you can get. You can claim after seven days of ill health.

INCOME-RELATED ESA AND STUDYING

You are eligible if you are a part-time student and have limited capability for work and meet the other basic conditions. If you are a full-time student, **you are only eligible if you get disability living allowance (DLA) or personal independence payment (PIP)**.

You are part-time if you do not meet the definition for full-time below.

In **further education** (FE) you are full-time if:

- you are under 19, or are 19 but were under 19 when you were accepted on, enrolled on or started the course, and your course is more than 12 hours a week during term time. These 12 hours include classes and supervised study, but not meal breaks or unsupervised study either at home or at college. If you fit these rules, you are termed a '**qualifying young person**'; or
- You are 20 or over, or are 19 and were already 19 when you were accepted on, enrolled on or started the course, and you are doing more than 16 hours of classes/workshops per week. If you are not doing more than 16 hours of classes/workshops, you are full-time if you are doing more than 21 hours per week when all study requirements are included.

In **higher education** you are full time if the college or university says that the course is full time.

EXAMPLE

Lewis is 26 and recently disabled. He has not paid enough NI contributions to get contributory ESA, so he gets income-related ESA only. He starts a full-time course of study in October 2016. His income-related ESA stops because he does not get DLA or PIP. He can reclaim income-related ESA when his course ends.

As well as being a student who is eligible to claim, to qualify for income-related ESA you must satisfy the basic ESA conditions (see above) and the additional conditions for income-related ESA.

These are:

- Your (and any partner's) income is low enough;
- your (and any's partner's) savings and other capital are no more than £16,000;
- any partner you have is not working full-time (24 hours per week or more);
- you satisfy the habitual residence and right to reside tests, and you are not a person subject to immigration control.

See CPAG's *Welfare Benefits and Tax Credits Handbook* for details.

LIMITED CAPABILITY FOR WORK

One of the basic rules of entitlement to ESA is that you must be assessed as having 'limited capability for work'. This means that because of your mental or physical condition it is unreasonable to require you to work. This is normally assessed at a medical known as the 'work capability assessment'. The work capability assessment also assesses whether you have 'limited capability for work-related activity'. If you do, then you are placed in the support group, and your ESA includes an extra amount called a 'support component'. This is paid to the most severely disabled people. If you do not have limited capability for work-related activity, you are placed in the work-related activity group and your ESA includes a 'work-related activity component'. If you are in the work-related activity group you are expected to attend work-focused interviews and may have to undertake work-related activity, and failure to do so may result in reduction of benefit.

Note: the work-related activity component is planned to be removed for new claims from April 2017.

Full-time students who get DLA or PIP and who are claiming income-related ESA are treated as having limited capability for work so do not have to satisfy this part of the work capability assessment. However this does not apply to all full-time students. If you are a qualifying young person (see above) and claiming income-related ESA then you will have to be assessed. Similarly, if you are claiming contributory ESA, you still have to have your limited capability for work assessed - even if you get DLA or PIP. All students, unless they get the support component, may have to attend work-focused interviews and may be required to take part in work-related activity.

If you fail the ESA medical you can challenge the decision. You can ask first for a review of the decision and if it is not successful you can appeal to an independent tribunal. You can continue to get some ESA pending appeal. Many decisions are overturned at appeal, especially if you get help from a citizens advice bureau or other organisation, so it is well worth doing this if you disagree with the decision.

AMOUNT OF BENEFIT

You are paid a limited amount of ESA during an initial 'assessment phase' (in most cases, this is 13 weeks) and are paid more after this, in the 'main phase'.

The exact amount of ESA you are paid depends on, among other things

- whether you are claiming contributory ESA or income-related ESA;
- whether you are in the 'assessment phase' or the 'main phase';
- which of the two possible additional components you get after the assessment phase. These are a 'support component' for the most disabled, and a 'work-related activity component' for everyone else. See note above about the removal of the work-related component.

ESA is worked out as follows.

CONTRIBUTORY ESA

In the assessment phase you get a basic allowance. In the main phase of ESA, your basic allowance increases if you are under 25, and an additional component is added to it - either the work-related activity component or the support component.

Contributory ESA, weekly rates	April 2016
Assessment phase, basic allowance (under 25)	£57.90
Assessment phase, basic allowance (25 or over)	£73.10
Main phase, basic allowance (16 or over)	£73.10
Main phase, support component	£36.20
Main phase, work-related activity component	£29.05

INCOME-RELATED ESA

Income-related ESA amounts are similar to contributory ESA, but contain extra elements in certain cases. The amount of income-related ESA you get depends on the circumstances of yourself and, if you have one, your partner. The amount also depends on your income and capital. Most student funding will be taken into account as income, eg, student loan, further education bursary. For more information, see CPAG's *Benefits for Students in Scotland Handbook*.

EXAMPLE

Doreen is 19 and has cerebral palsy. She gets DLA low rate care component and lives with her parents. In August 2016 she starts a full-time NC course. She claims ESA. She is eligible for income-related ESA.

Assessment phase

During the assessment phase (the first 13 weeks) Doreen gets income-related ESA of £57.90 (the basic allowance rate for under 25-year-olds).

Main phase

Doreen is assessed as having limited capability for work, and as being in the work-related activity group. In the main phase of her claim (from the start of week 14) she is eligible for a basic allowance of £73.10 and a work-related activity component of £29.05. She gets £102.15 income-related ESA.

CLAIMING ESA

You start your claim by phoning the national Jobcentre Plus contact centre number on 0800 055 6688 (although paper claim forms should also be available if it is not suitable for you to use the telephone). Both contributory and income-related ESA can be backdated for up to three months, if you satisfied the conditions of entitlement during that time.

You will usually be interviewed after you claim. You need to send a medical certificate from your doctor until you are assessed under the work capability assessment.

Either member of a couple can make a claim for income-related ESA for both, but whoever claims must be eligible in her/his own right. You claim contributory ESA for yourself only.

OTHER BENEFITS AND TAX CREDITS

You cannot get ESA if you are getting statutory sick pay (SSP) from an employer. SSP runs out after 28 weeks, after which you can claim ESA.

You cannot get ESA if you are getting income support (IS) or jobseeker's allowance (JSA). You can claim contributory ESA if your partner is getting IS or JSA. You are excluded if you get joint claim JSA. You cannot get income-related ESA if your partner gets IS, income-based JSA or pension credit.

Income-related ESA passports you to maximum housing benefit and council tax reduction, maximum child tax credit, free school meals, health benefits and social fund payments. Getting ESA can help you qualify for the disability element of working tax credit if you go back to work.

CHILD POVERTY ACTION GROUP IN SCOTLAND

Advice line for frontline advisers and support workers
0141 552 0552
Monday – Thursday 10am – 4pm; Friday 10am – 12 noon

Email: advice@cpagscotland.org.uk

CPAG in Scotland advice line is only for advisers. If you are a student or thinking of doing a course of education and are in need of advice, contact your college/university student welfare services, or your local Citizens Advice Bureau.

FURTHER INFORMATION

- CPAG in Scotland's Benefits for Students Project go to www.cpag.org.uk/scotland/students-and-benefits-project
- CPAG in Scotland's free online Benefits for Students in Scotland Handbook go to www.onlinepublications.cpag.org.uk
- View our full range of factsheets online at: www.cpag.org.uk/scotland/factsheets
- CPAG publishes the Welfare Benefits and Tax Credits Handbook, a comprehensive guide to benefits and tax credit for claimants and advisers. Find out more at: www.cpag.org.uk/bookshop
- We run a wide range of training courses on students and benefits for workers of different levels of experience. Find out more at: www.cpag.org.uk/scotland/training
- Follow us on Twitter [@CPAGScotland](https://twitter.com/CPAGScotland)

Lead Scotland

Lead Scotland (Specialists in Education and Disability) provide advice and information for disabled learners and carers www.lead.org.uk

Freephone helpline 0800 999 2568 or email info@lead.org.uk

**CHILD
POVERTY
ACTION
GROUP**
IN SCOTLAND

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