

The 104 week benefit linking rule for people who are in receipt of the new Employment and Support Allowance when it is introduced in October 2008

Information
Sheet 1.4

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Introduction

There are two benefit linking rules for people who are in receipt of the Employment and Support Allowance. There is a 12 week linking rule and a 104 week linking rule. These benefit linking rules protect benefit rates.

If you have stopped claiming benefits and then find that you need to make a new claim to benefits within:

- 12 weeks, or
- 104 weeks (two years) if the job or training¹ didn't work out, you will be entitled to the same rates as before, straight away, without any waiting period or any assessment period. This is providing you make the claim before the 12 weeks or the 104 weeks are up, and your health condition is such that the doctor will provide another sick certificate.

Which benefits are protected by the 12 week and the 104 week benefit linking rule?

The linking rules protect the amount you are being paid as the Employment and Support Allowance. There are four types of Employment and Support Allowance and all are protected in the same way.

And if you claim the Employment and Support Allowance the linking rule also protects your rates of:

- Housing Benefit
- or Local Housing Allowance
- Council Tax Benefit
- Employment and Support Allowance income based, for mortgage interest (plus immediate reinstatement of payments)

Watch out! People who receive Incapacity Benefit (IB), Severe Disablement Allowance (SDA) and or Income Support for incapacity have slightly different linking rules.

There is a separate leaflet to read. Don't use this leaflet.

¹ Official training that pays a training allowance instead of your benefits. Check with Jobcentre Plus.

How do I qualify for the 12 week linking rule protection?

If you leave the Employment and Support Allowance at any time during your claim, you will be entitled to re-claim within the following 12 weeks and have the claim linked to the previous one. Under the 12 week linking rule there does not have to be any specific reason for leaving the benefit. The advantage of this linking rule is that you do not have to be assessed again for entitlement. You do not have to go back onto a lower rate while you are waiting to be assessed.

How do I qualify for the 104 week linking rule protection?

Providing you have been on the Employment and Support Allowance for at least 13 weeks and you stopped claiming because you had started work or training* within one month, you are qualified for the 104 week linking rule protection.

Once you have qualified for a first time you don't need to return to benefits for a further 13 weeks to qualify again. Providing you have not exceeded the 104 weeks before returning to benefits or been disallowed the Employment and Support Allowance, the linking rule benefit protection will be available to use from the first day of when your incapacity benefits are paid again.

Will I be sent for a medical test of my incapacity if I have been working?

If your benefits were protected by the linking rule then when you make a new claim you cannot be sent for another medical test (called the Work Capability Assessment) for 91 days.

What are the procedures to use the linking rules?

When you start work or training, you must let the Jobcentre Plus office that pays your benefits know, so that your benefits are stopped.

What sort of work counts for the linking rule?

Paid work that is for 16 hours a week or more counts for the linking rule.

What sort of training counts for the linking rule?

Generally official government funded training that requires you to come off your benefits and be paid a training allowance instead, counts for the 104 week linking rule. It is best to check with Jobcentre Plus first.

Are all types of Housing Benefit protected?

A small group of people do not have their Housing Benefit protected by the 104 week linking rule. These are people who rent from a private landlord and who first claimed Housing Benefit for their current accommodation before 1996.

If you are in this group and stop claiming Housing Benefit, and if you make a new claim you will be transferred to the Local Housing Allowance when it is introduced to your area.

You might be worse off on the Local Housing Allowance if your rent is higher than average for the area or your accommodation is thought to be larger than you need.

You might be better off on the Local Housing Allowance if at the moment you are not getting Housing Benefit for all of your rent.

People in social housing (Housing Association and Council) will have their Housing Benefit rates protected.

Is mortgage interest, that is paid through the Employment and Support Allowance, also protected?

The linking rule means that you are entitled to have your mortgage interest reinstated at the previous rate as before from the first day of reclaiming the Employment and Support Allowance. There is no waiting period.

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