

ESA allocation to the employee – scenarios

Introduction

The 2020-23 Enterprise Agreement includes a proposal to have ESA allocated to electorate employees rather than electorate office positions.

ESA will be able to be allocated to any ongoing or non-ongoing electorate employee against a position, the electorate support budget (ESB) or a combination of the two.

The overall value of ESA available to be allocated in each office is unchanged though there will be a finer gradation in the levels that can be allocated to each employee. The office allocation cap will be 32 (or 36 and 40 for Members who are allocated five or six electorate office positions; instead of the current 16, 18 and 20 levels). The cap on the allocation of ESA to an employee will double (to ESA 14, equivalent to the current ESA 7) while the value of each ESA level will be proportionally smaller.

The ‘trigger’ events that allow the employer to change the ESA allocation in their office are largely unchanged. An employer and employee will also be able to agree that an employee’s ESA allocation is to be reduced or ceased, e.g. if an employee reduces their hours of work or can no longer work the additional hours that they had been working. This could occur due to changes in family or carer responsibilities or the employer might alter the duties and roles of staff in the office.

ESA will not be pro rata for part-time employees (as at present), but paid at the full amount allocated to the employee regardless of their part-time hours of work.

Scenario 1 – unallocated ESA in an office

Where the employer has not allocated all of its ESA levels, they can allocate them at any time.

Example: There are five levels of unallocated ESA in the office. Jon is currently not allocated any ESA. Jon’s employer decides that due to the additional hours Jon is working, he should be allocated ESA 3. This can immediately be allocated to Jon and does not require a ‘trigger’ event.

Scenario 2 – employee ceases and a new employee commences

When an employee ceases, their ESA becomes available for allocation elsewhere in the office. The ESA can be allocated to a new employee or an existing employee.

Example: Carla is currently allocated ESA 10. Carla resigns and the 10 levels of ESA are now available to be allocated to other employees. The employing member decides to allocate ESA 7 to Ryan, Carla’s replacement and ESA 3 to Sarah, an existing employee was previously allocated ESA 5. Sarah now has ESA 8.

Scenario 3 – employee changes their part-time hours

When an employee changes their hours, they keep their existing ESA allocation. ESA is not pro rata for part-time employees.

Examples:

1. Mike reduces his part-time hours from 2.5 days per week to two days. Mike was allocated ESA 4 before the reduction in hours and will continue to be paid ESA 4. Mike and his employer can agree to reduce his ESA allocation if this is appropriate (see scenario 8).
2. Liz increases her part-time hours from two days per week to four days per week. Liz was allocated ESA 5 before the increase in hours and will continue to be paid ESA 5. However, if Liz' employer has unallocated ESA in the office, they can increase Liz' ESA reflecting any expectation of increased additional working hours.

Scenario 4 – employee changes their classification

When an employee changes their classification, they keep their existing ESA allocation.

Example: Hasan is employed as an EOA with ESA 2. He is promoted to a vacant EOB position. Hasan's ESA does not change unless the employer chooses to allocate additional ESA (if available).

Scenario 5 – employee is employed partially or fully against the Electorate Support Budget (ESB)

ESA can be allocated to an ongoing or non-ongoing employee employed partially or fully against the ESB. The employee is paid the full amount of ESA, it is not pro rata for the employment against a position.

Example: Melissa is employed two days per week against a position and one day against the ESB. She is allocated ESA 6. Melissa will be paid the full amount – ESA 6, not just the proportion against the position.

Scenario 6 – employee goes on short-term leave

An employee on leave of less than three months continues to be paid their allocated ESA, which is counted towards to office's ESA cap. An employee back-filling for an employee on leave does not automatically receive ESA.

Examples:

1. Ben, who is allocated ESA 7, goes on personal leave for two weeks. Ben continues to be paid ESA 7 while on leave and the allocation is counted towards the office's ESA cap. Jill is employed against Ben's position as a non-ongoing employee while Ben is away. Jill does not automatically receive ESA, unless the employer chooses to allocate her ESA (if available).

- Chris, an EOC who is allocated ESA 10, goes on annual leave for three weeks. Chris continues to be paid ESA 10 while on leave and the allocation counts towards the office's ESA cap. Sam, an EOB who is allocated ESA 4, is given HDA in Chris' position during the leave. Sam continues to be paid ESA 4 during this period. Alex is employed against Sam's position as a non-ongoing employee while Sam is on HDA. Alex does not automatically receive ESA, unless the employer chooses to allocate her ESA (if available).

Scenario 7 – employee goes on long-term leave

Where an employee takes leave of three months or more, the employer can reallocate ESA in the office on commencement and cessation of the leave. The employee on leave continues to be paid their allocated ESA but this does not count towards the ESA cap during their leave.

Example: Joanne, who is allocated ESA 10, goes on long service leave for four months. This is a trigger for an ESA re-allocation in the office. The employer changes the ESA allocated to the other employees and also allocates ESA 4 to Karen, who is a non-ongoing employee against Joanne's position during the leave. Joanne continues to be paid ESA 10 during the leave and this is not counted towards the office's ESA cap. When Joanne returns from leave, this is another trigger for an ESA re-allocation in the office. If the employer does not re-allocate ESA in the office on Joanne's return, Joanne's ESA allocation may be automatically reduced so it is no more than the unallocated ESA in the office (including to zero).

Fig 1: Joanne goes on leave, Karen commences as non-ongoing. The employer can reallocate ESA

Posn	Class	Emp	ESA
1	EOC	Ray	10
2	EOB	Joanne	10
3	EOA	Matt	6
		Yong	4
4	EOA	Kelvin	2
Total			32

Joanne on leave and Karen commences →

Posn	Class	Emp	ESA
1	EOC	Ray	12
2	EOB	Joanne	10 (not counted)
		Karen	4
3	EOA	Matt	8
		Yong	4
4	EOA	Kelvin	4
Total			32

Fig 2: Joanne returns from leave. Karen ceases. The employer can choose to reallocate ESA.

Posn	Class	Emp	ESA
1	EOC	Ray	10
2	EOB	Joanne	10
3	EOA	Matt	6
		Yong	4
4	EOA	Kelvin	2
Total			32

OR

Posn	Class	Emp	ESA
1	EOC	Ray	12
2	EOB	Joanne	4
3	EOA	Matt	8
		Yong	4
4	EOA	Kelvin	4
Total			32

The employer could choose to set the ESA allocations as they were before Joanne went on leave (or to another configuration).

If the employer does nothing on Joanne's return from leave, Joanne's ESA allocation would be reduced to bring the allocation within the office cap (i.e. to ESA 4).

Scenario 8 – employee and employer agree to reduce the allocated ESA

An employee and employer can agree at any time to reduce the ESA allocated to the employee. This ESA is then available to be allocated to other employees.

Example: Cho is currently allocated ESA 12 because she works full-time and does all of the travel to Canberra. However, because of personal circumstances, she has to start working part-time three days a week and cannot travel. Cho and her employer agree to reduce her ESA to ESA 4. The employer now has eight levels of ESA to allocate to other employees. The employer chooses to allocate ESA 6 to George who will be undertaking the Canberra travel and keeps two levels for allocations in the future.

Scenario 9 – ESA and the deferral of termination of employment

The ESA allocation of an employee may not be changed during a period that the termination of employment of the employee is deferred.

Examples:

1. Senator Max resigns from the Parliament causing the termination of employment of his electorate employees. The termination of employment is deferred until the casual vacancy in the Senate is filled. The ESA allocated to the electorate employees will remain unchanged during the deferral period, ensuring that their severance benefit and payments in lieu of unused leave are unaffected. If an employee is employed by the new Senator, that Senator will have their own allocation of ESA to allocate to their electorate employees, which may differ from the ESA allocated by Senator Max.
2. Minister Teal changes portfolio in a Ministry reshuffle causing the termination of employment of her electorate employees. The termination of employment is deferred for two weeks. The ESA allocated to the electorate employees will remain unchanged during the deferral period, ensuring that their severance benefit and payments in lieu of unused leave are unaffected. If Minister Teal re-employs an electorate employee, their ESA allocation will be unchanged as there is no trigger event. If Minister Teal employs a new electorate employee they may be allocated any unallocated ESA at the time that they are employed. The ESA allocated to a ceasing employee is not available to be re-allocated until that employment ceases.