



# Welfare Reform Act 2009

## 2009 CHAPTER 24

### PART 1

#### SOCIAL SECURITY

##### *Contributory jobseeker's allowance and employment and support allowance*

#### **12 Conditions for contributory jobseeker's allowance**

- (1) Section 2 of the Jobseekers Act 1995 (c. 18) (jobseeker's allowance: the contribution-based conditions) is amended as follows.
- (2) In subsection (2), for paragraph (b) substitute—
  - “(b) the claimant's relevant earnings for the base year upon which primary Class 1 contributions have been paid or treated as paid are not less than the base year's lower earnings limit multiplied by 26.”
- (3) After that subsection insert—
  - “(2A) Regulations may make provision for the purposes of subsection (2)(b) for determining the claimant's relevant earnings for the base year.
  - (2B) Regulations under subsection (2A) may, in particular, make provision—
    - (a) for making that determination by reference to the amount of a person's earnings for periods comprised in the base year;
    - (b) for determining the amount of a person's earnings for any such period by—
      - (i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Benefits Act, and
      - (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base year's lower earnings limit (or the prescribed equivalent).”

---

*Changes to legislation: Welfare Reform Act 2009, Cross Heading: Contributory jobseeker's allowance and employment and support allowance is up to date with all changes known to be in force on or before 29 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (4) In subsection (3A), for “subsections (2)(b) and (3)” substitute “ subsection (3) ”.
- (5) After that subsection insert—
- “(3B) Regulations may—
- (a) provide for the first set of conditions to be taken to be satisfied in the case of persons—
    - (i) who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time, or
    - (ii) who satisfy other prescribed conditions;
  - (b) with a view to securing any relaxation of the requirements of the first set of conditions in relation to persons who have been entitled as mentioned in paragraph (a)(i), provide for that set of conditions to apply in relation to them subject to prescribed modifications.
- (3C) In subsection (3B)—
- “the first set of conditions” means the condition set out in subsection (1)(a) and the additional conditions set out in subsection (2);
- “benefit” means—
- (a) any benefit within the meaning of section 122(1) of the Benefits Act,
  - (b) any benefit under Parts 7 to 12 of the Benefits Act,
  - (c) credits under regulations under section 22(5) of the Benefits Act,
  - (d) a contribution-based jobseeker's allowance, and
  - (e) working tax credit.”
- (6) In paragraph 45 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) (which amended section 2(2)(b) of the Jobseekers Act 1995 (c. 18)), for “section 2(2) (b) and (3)” substitute “ section 2(3) ”.

#### Commencement Information

- I1** S. 12(1)(3) in force at 1.10.2010 by S.I. 2010/2377, **art. 2(1)(a)**
- I2** S. 12(2)(4)(6) in force at 1.11.2010 by S.I. 2010/2377, **art. 2(2)(a)**
- I3** S. 12(5) in force at 29.11.2011 for specified purposes by S.I. 2011/2857, **art. 2(a)**

### 13 Conditions for contributory employment and support allowance

- (1) Paragraph 1 of Schedule 1 to the Welfare Reform Act 2007 (c. 5) (employment and support allowance: conditions relating to national insurance) is amended as follows.
- (2) In sub-paragraph (1)(a) (Class 1 or Class 2 contributions to have been paid in respect of one of last three complete tax years), for “three” substitute “ two ”.
- (3) In sub-paragraph (1), for paragraph (c) substitute—
 

“(c) the claimant's earnings determined in accordance with sub-paragraph (2) must be not less than the base tax year's lower earnings limit multiplied by 26.”

---

**Changes to legislation:** Welfare Reform Act 2009, Cross Heading: Contributory jobseeker's allowance and employment and support allowance is up to date with all changes known to be in force on or before 29 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

(4) For sub-paragraphs (2) and (3) substitute—

- “(2) The earnings referred to in sub-paragraph (1)(c) are the aggregate of—
- (a) the claimant's relevant earnings for the base tax year upon which primary Class 1 contributions have been paid or treated as paid, and
  - (b) the claimant's earnings factors derived from Class 2 contributions.
- (3) Regulations may make provision for the purposes of sub-paragraph (2)(a) for determining the claimant's relevant earnings for the base tax year.
- (3A) Regulations under sub-paragraph (3) may, in particular, make provision—
- (a) for making that determination by reference to the amount of a person's earnings for periods comprised in the base tax year;
  - (b) for determining the amount of a person's earnings for any such period by—
    - (i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Contributions and Benefits Act, and
    - (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base tax year's lower earnings limit (or the prescribed equivalent).”

(5) In sub-paragraph (4)—

- (a) in paragraph (a), for “persons who” substitute “persons—
  - (i) who”,
- (b) in that paragraph, after “prescribed time” insert “, or
  - (ii) who satisfy other prescribed conditions”, and
- (c) in paragraph (b), for “so entitled” substitute “ entitled as mentioned in paragraph (a)(i) ”.

---

**Commencement Information**

- I4** S. 13(1) in force at 1.10.2010 by S.I. 2010/2377, **art. 2(1)(b)**
- I5** S. 13(2)(3) in force at 1.11.2010 by S.I. 2010/2377, **art. 2(2)(b)**
- I6** S. 13(4) in force at 1.10.2010 for specified purposes by S.I. 2010/2377, **art. 2(1)(c)**
- I7** S. 13(4) in force at 1.11.2010 in so far as not already in force by S.I. 2010/2377, **art. 2(2)(c)**
- I8** S. 13(5)(a)(b) in force at 29.11.2011 by S.I. 2011/2857, **art. 2(b)**

**Changes to legislation:**

Welfare Reform Act 2009, Cross Heading: Contributory jobseeker's allowance and employment and support allowance is up to date with all changes known to be in force on or before 29 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 4 para. 9(3)(b) repealed by [2009 c. 24 Sch. 7 Pt. 1](#)