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## SCHEDULES

### SCHEDULE 1

#### EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

#### [<sup>F1</sup>PART 1]

#### [<sup>F1</sup>CONTRIBUTORY ALLOWANCE]

##### Textual Amendments

- F1** Words in Sch. 1 Pt. 1 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5)

#### *Conditions relating to national insurance*

- 1.—(1) The first condition is that—
- (a) the claimant has actually paid Class 1 or Class 2 contributions in respect of one of the last [<sup>F2</sup>two] complete tax years (“the base tax year”) before the beginning of the relevant benefit year,
  - (b) those contributions must have been paid before the relevant benefit week, and
  - [<sup>F3</sup>(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.]
- [<sup>F4</sup>(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.

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- (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).]
- (4) Regulations may—
- (a) provide for the condition set out in sub-paragraph (1) to be taken to be satisfied in the case of [F5 persons—
    - (i) who] have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time [F6, or
    - (ii) who satisfy other prescribed conditions];
  - (b) with a view to securing any relaxation of the requirements of that condition in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.
- (5) In sub-paragraph (4), “benefit” means—
- [F7(za) universal credit,]
- (a) any benefit within the meaning of section 121(1) of the Contributions and Benefits Act,
  - (b) any benefit under Parts 7 to 12 of that Act,
  - (c) credits under regulations under section 22(5) of that Act,
- [F8(ca) credits under section 23A of that Act,]
- (d) [F9an employment and support allowance] , and
  - (e) working tax credit.

#### Textual Amendments

- F2** Word in Sch. 1 para. 1(1)(a) substituted (1.11.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), [ss. 12\(2\)](#), 36(2); S.R. 2010/341, [art. 2\(2\)\(b\)](#)
- F3** Sch. 1 para. 1(1)(c) substituted (1.11.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), [ss. 12\(3\)](#), 36(2); S.R. 2010/341, [art. 2\(2\)\(b\)](#)

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- F4** Sch. 1 para. 1(2)(3)(3A) substituted (1.10.2010 for certain purposes, otherwise 1.11.2010) for Sch. 1 para. 1(2)(3) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 12\(4\), 36\(2\); S.R. 2010/341, art. 2\(1\)\(c\)\(2\)\(c\)](#)
- F5** Words in Sch. 1 para. 1(4)(a) substituted (16.12.2011) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 12\(5\)\(a\), 36\(2\); S.R. 2011/430, art. 2](#)
- F6** Words in Sch. 1 para. 1(4)(a) inserted (16.12.2011) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 12\(5\)\(b\), 36\(2\); S.R. 2011/430, art. 2](#)
- F7** Sch. 1 para. 1(5)(za) inserted (27.9.2017) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\), art. 2\(2\), Sch. 2 para. 54; S.R. 2017/190, art. 4\(1\)\(2\)\(g\)\(i\)](#)
- F8** Sch. 1 para. 1(5)(ca) inserted (11.2.2008) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\), s. 3\(3\), Sch. 1 para. 11](#)
- F9** Words in Sch. 1 para. 1(5)(d) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\), art. 2\(2\), Sch. 3 para. 21\(f\); S.R. 2016/215, art. 2\(2\)\(c\)\(vi\); S.R. 2017/190, art. 6 \(with arts. 7, 8, 10-25, Sch. 3\); S.R. 2017/216, art. 4 \(with art. 5\); S.R. 2018/1, art. 4 \(with art. 5\); S.R. 2018/97, art. 4 \(with art. 5\)](#)

#### Commencement Information

- I1** Sch. 1 para. 1 wholly in operation at 27.10.2008; Sch. 1 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 1(4) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by [S.R. 2008/276, art. 2\(2\)\(c\), Sch. Pt. 1](#); Sch. 1 para. 1 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276, art. 2\(2\)\(d\), Sch. Pt. 2](#)

2.—(1) The second condition is that—

- (a) the claimant has in respect of the last two complete tax years before the beginning of the relevant benefit year either paid or been credited with Class 1 or Class 2 contributions or been credited with earnings, and
- (b) the earnings factor derived as mentioned in sub-paragraph (2) must be not less in each of those years than the year's lower earnings limit multiplied by 50.

(2) The earnings factor referred to in sub-paragraph (1)(b) is the aggregate of the claimant's earnings factors derived—

- (a) from so much of his earnings as did not exceed the upper earnings limit for the year and upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited, and
- (b) from Class 2 contributions.

(3) Where primary Class 1 contributions have been paid or treated as paid on any part of a person's earnings, sub-paragraph (2)(a) shall have effect as if such contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit for the year.

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**3.—(1)** For the purposes of paragraphs 1 and 2—

- (a) “benefit year” means a period which is a benefit year for the purposes of Part 2 of the Contributions and Benefits Act or such other period as may be prescribed for the purposes of this Part of this Schedule;
- (b) “Class 1 contributions”, “Class 2 contributions” and “primary Class 1 contributions” have the same meaning as in the Contributions and Benefits Act (see section 1 of that Act);
- (c) “earnings” shall be construed in accordance with sections 3, 4 and 112 of that Act;
- (d) “earnings factor” shall be construed in accordance with sections 22 and 23 of that Act;
- (e) “lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of that Act and references to the lower or upper earnings limit of a tax year are to whatever is (or was) the limit in force for that year under that section;
- (f) “relevant benefit year” is the benefit year which includes the beginning of the period of limited capability for work which includes the relevant benefit week;
- (g) “tax year” means the 12 months beginning with 6th April in any year.

(2) Regulations may provide for sub-paragraph (1)(f) to have effect in prescribed circumstances with prescribed modifications in the case of—

- (a) a person who has previously ceased to be entitled to [<sup>F10</sup>an employment and support allowance] ;
- (b) a person who has made a claim for an employment and support allowance in connection with which he failed to satisfy one or both of the conditions in paragraphs 1 and 2.

**Textual Amendments**

**F10** Words in Sch. 1 para. 3(2)(a) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 3 para. 21\(f\)](#); [S.R. 2016/215](#), art. 2(2)(c)(vi); [S.R. 2017/190](#), art. 6 (with arts. 7, 8, 10-25, Sch. 3); [S.R. 2017/216](#), art. 4 (with art. 5); [S.R. 2018/1](#), art. 4 (with art. 5); [S.R. 2018/97](#), art. 4 (with art. 5)

**Modifications etc. (not altering text)**

**C1** Sch. 1 para. 3(1)(f) modified (27.10.2008) by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), regs. 1(1), **13(1)**

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- C2** Sch. 1 para. 3(1)(f) modified by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), reg. 13 (as substituted (28.6.2010) by [Social Security \(Miscellaneous Amendments No. 4\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/200\)](#), reg. 9(7))
- C3** Sch. 1 para. 3(1)(f) modified (27.9.2017 and further specified dates for specified purposes) by [The Employment and Support Allowance Regulations\(Northern Ireland\) 2016 \(S.R. 2016/219\)](#), regs. 1(2), **14(1)**

#### Commencement Information

- I2** Sch. 1 para. 3 wholly in operation at 27.10.2008; Sch. 1 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 3(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by [S.R. 2008/276](#), art. 2(2)(c), Sch. Pt. 1; Sch. 1 para. 3 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276](#), art. 2(2)(d), Sch. Pt. 2

#### *Condition relating to youth*

- 4.—(1) The third condition is that—
- (a) the claimant was under 20 or, in prescribed cases, 25 when the relevant period of limited capability for work began,
  - (b) he is not receiving full-time education,
  - (c) he satisfies such conditions as may be prescribed with respect to residence or presence in Northern Ireland (or both), and
  - (d) there has been a day in the relevant period of limited capability for work—
    - (i) which was a day on which he was aged at least 16, and
    - (ii) which was preceded by a period of 196 consecutive days throughout which he had limited capability for work.
- (2) In sub-paragraph (1), “relevant period of limited capability for work” means the period of limited capability for work which includes the relevant benefit week.
- (3) Regulations may prescribe circumstances in which sub-paragraph (1)(a) does not apply in the case of a person who has previously ceased to be entitled to an employment and support allowance to which he was entitled by virtue of satisfying the condition set out in sub-paragraph (1).
- (4) Regulations may make provision about when, for the purposes of sub-paragraph (1)(b), a person is, or is not, to be treated as receiving full-time education.

#### Modifications etc. (not altering text)

- C4** Sch. 1 para. 4(1)(a) excluded (27.10.2008) by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), regs. 1(1), **10(1)**

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- C5** Sch. 1 para. 4(1)(a) excluded (27.9.2017 and further specified dates for specified purposes) by [The Employment and Support Allowance Regulations\(Northern Ireland\) 2016 \(S.R. 2016/219\)](#), regs. 1(2), **11(1)**

**Commencement Information**

- I3** Sch. 1 para. 4 wholly in operation at 27.10.2008; Sch. 1 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 4(1)(a)(c)(3)(4) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by [S.R. 2008/276](#), **art. 2(2)(c)**, Sch. Pt. 1; Sch. 1 para. 4 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276](#), **art. 2(2)(d)**, Sch. Pt. 2

*“Relevant benefit week”*

**5** In this Part of this Schedule, “relevant benefit week” means the week in relation to which the question of entitlement to an employment and support allowance is being considered.

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