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## SCHEDULES

### SCHEDULE 1

#### EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

##### PART 1

##### CONTRIBUTORY ALLOWANCE

###### *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 three 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
  - (c) the earnings factor derived as mentioned in sub-paragraph (2) must be not less than the base tax year's lower earnings limit multiplied by 25.
- (2) The earnings factor referred to in sub-paragraph (1)(c) is the aggregate of the claimant's earnings factors derived—
- (a) from so much of his earnings as did not exceed the base tax year's upper earnings limit and upon which primary Class 1 contributions have been paid or treated as paid, 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 base tax year's upper earnings limit.
- (4) Regulations may—
- (a) provide for the condition set out in sub-paragraph (1) to be taken to be satisfied in the case of persons who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time;
  - (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—
- (a) any benefit within the meaning of section 122(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,

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- [<sup>F1</sup>(ca) credits under section 23A of that Act,]  
 (d) a contributory allowance, and  
 (e) working tax credit.

**Annotations:**

**Amendments (Textual)**

**F1** Sch. 1 para. 1(5)(ca) inserted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 11**

**Commencement Information**

**I1** Sch. 1 para. 1(1)-(3)(5) in force at 27.10.2008 by S.I. 2008/787, **art. 2(4)(d)**

**I2** Sch. 1 para. 1(4) in force at 18.3.2008 for specified purposes by S.I. 2008/787, **art. 2(1)**

**I3** Sch. 1 para. 1(4) in force at 27.10.2008 in so far as not already in force by S.I. 2008/787, **art. 2(4)(d)**

- 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.

**Annotations:**

**Commencement Information**

**I4** Sch. 1 para. 2 in force at 27.10.2008 by S.I. 2008/787, **art. 2(4)(d)**

- 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;

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- (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 a contributory 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.

**Annotations:**

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

- C1** Sch. 1 para. 3(1)(f) modified (27.10.2008) by [Employment and Support Allowance Regulations 2008](#) (S.I. 2008/794), regs. 1(a), **13**

**Commencement Information**

- I5** Sch. 1 para. 3(1) in force at 27.10.2008 by S.I. 2008/787, **art. 2(4)(d)**
- I6** Sch. 1 para. 3(2) in force at 18.3.2008 for specified purposes by S.I. 2008/787, **art. 2(1)**
- I7** Sch. 1 para. 3(2) in force at 27.10.2008 in so far as not already in force by S.I. 2008/787, **art. 2(4)(d)**

**Changes to legislation:**

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

- Act applied (with modifications) by S.I. 2016/1050 reg. 2(2)

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

- s. 1(3)(aa) inserted by 2012 c. 5 s. 54(2)
- s. 1(3)(za) inserted by 2012 c. 5 s. 62(2)
- s. 1(3A) inserted by 2012 c. 5 s. 53
- s. 1(3A) words repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 1(3B) inserted by 2012 c. 5 s. 62(3)
- s. 1(6A) inserted by 2012 c. 5 s. 50(1)
- s. 1(6A) (7) repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 1A inserted by 2012 c. 5 s. 51(1)
- s. 1A heading word repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 1A(1) words repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 1A(1) words substituted by 2012 c. 5 Sch. 3 para. 26(a)
- s. 1A(3) (4) words repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 1A(3) s. 1A(4) s. 1A(5) (6) words substituted by 2012 c. 5 Sch. 3 para. 26(a)
- s. 1B inserted by 2012 c. 5 s. 52(1)
- s. 1B(1) words substituted by 2012 c. 5 Sch. 3 para. 26(b)
- s. 1B(2) repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 1C inserted by 2012 c. 5 s. 54(3)
- s. 1C repealed by 2012 c. 5 Sch. 14 Pt. 5
- s. 2(6) inserted by 2012 c. 5 Sch. 5 para. 6(3)
- s. 11-11K and cross-heading substituted for s. 11-16 and cross-heading by 2012 c. 5 s. 57(2)
- s. 13(6A) inserted by 2009 c. 24 s. 3(4)(b)
- s. 13(8) inserted by 2012 c. 5 s. 55
- s. 14(5) amendment to earlier affecting provision 2009 c. 24, s. 31(2) by 2012 c. 5 s. 54(7)
- s. 14(5) inserted by 2009 c. 24 s. 31(2)
- s. 15(1) s. 15(1A) (2) substituted for s. 15(1)(2) by 2009 c. 24 s. 10
- s. 15A inserted by 2009 c. 24 Sch. 3 para. 6
- s. 15A repealed by 2012 c. 5 s. 60(2)
- s. 16(1)(d)-(f) inserted by 2009 c. 24 Sch. 3 para. 8(2)(a)
- s. 16(1)(d)-(f) repealed by 2012 c. 5 Sch. 14 Pt. 6
- s. 16(1)(za) inserted by 2012 c. 5 s. 54(5)
- s. 16A inserted by 2012 c. 5 s. 56
- s. 16A repealed by 2012 c. 5 Sch. 14 Pt. 5
- s. 24(3A) (3B) inserted by 2009 c. 24 s. 3(5)
- s. 24(3A) (3B) repealed by 2012 c. 5 Sch. 14 Pt. 5
- s. 26(1)(d) inserted by 2009 c. 24 Sch. 3 para. 8(4)
- s. 26(1)(d) repealed by 2012 c. 5 Sch. 14 Pt. 6
- s. 26(1)(aa) inserted by 2012 c. 5 s. 57(6)
- s. 26(3) inserted by 2012 c. 5 s. 51(3)
- Sch. 1 para. 6(1)(da) inserted by 2009 c. 24 s. 5(2)(a)
- Sch. 1 para. 6(2A) inserted by 2009 c. 24 s. 5(2)(b)
- Sch. 1 para. 1(5)(za) inserted by 2012 c. 5 Sch. 2 para. 65
- Sch. 1 para. 1(2)-(3A) substituted for Sch. 1 para. 1(2)(3) by 2009 c. 24 s. 13(4)
- Sch. 1A inserted by 2009 c. 24 Sch. 3 para. 7
- Sch. 1A repealed by 2012 c. 5 s. 60(2)
- Sch. 2 para. 10A inserted by 2009 c. 24 s. 30(2)

- Sch. 2 para. 4A and cross-heading inserted by 2012 c. 5 s. 54(6)
- Sch. 2 para. 10ZA inserted by 2012 c. 5 s. 57(7)(b)
- Sch. 2 para. 10B and cross-heading inserted by 2012 c. 5 s. 57(8)
- Sch. 2 para. 4B and cross-heading inserted by 2012 c. 5 s. 62(4)
- Sch. 2 para. 11(b)(c) repealed by 2012 c. 5 Sch. 14 Pt. 1
- Sch. 2 para. 12(ca) repealed in part by 2012 c. 5 Sch. 14 Pt. 6
- Sch. 2 para. 10A heading word substituted by 2012 c. 5 s. 57(7)(a)
- Sch. 2 para. 10A(1) words inserted by 2009 c. 24 Sch. 3 para. 8(5)(a)
- Sch. 2 para. 10A(1) words repealed by 2012 c. 5 Sch. 14 Pt. 6
- Sch. 2 para. 10A(1) words substituted by 2012 c. 5 s. 57(7)(c)(i)
- Sch. 2 para. 10A(1) words substituted by 2012 c. 5 s. 57(7)(c)(ii)
- Sch. 4 para. 7(2)(f) inserted by 2012 c. 5 s. 51(4)

**Commencement Orders yet to be applied to the Welfare Reform Act 2007**

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2010/293 art. 2 commences (2009 c. 24)
- S.I. 2010/2377 art. 2 commences (2009 c. 24)
- S.I. 2011/2427 art. 2 commences (2009 c. 24)
- S.I. 2011/2857 art. 2 commences (2009 c. 24)