



2010 CHAPTER 13

PART 1

SOCIAL SECURITY

Contributory jobseeker's allowance and employment and support allowance

Conditions for contributory employment and support allowance

12.—(1) Paragraph 1 of Schedule 1 to the Welfare Reform Act (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 the 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.”.

(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 "
 - (i) who satisfy other prescribed conditions", and
- (c) in paragraph (b), for "so entitled" substitute "entitled as mentioned in paragraph (a)(i)".