

Status: Point in time view as at 29/04/2013.

Changes to legislation: Welfare Reform Act 2007, Cross Heading: Conditions relating to national insurance is up to date with all changes known to be in force on or before 06 May 2024. 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)

SCHEDULES

SCHEDULE 1

EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

PART 1

F1
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Textual Amendments

F1 Sch. 1 Pt. 1 heading repealed (29.4.2013 for specified purposes) by Welfare Reform Act 2012 (c. 5), s. 150(3), Sch. 14 Pt. 1; S.I. 2013/983, arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by S.I. 2013/1511; (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (15.9.2014) by S.I. 2014/2321; (17.11.2014) by S.I. 2014/3067; (21.11.2014) by S.I. 2014/3094; (19.1.2015) by S.I. 2015/32 (as amended (10.2.2015) by S.I. 2015/101); (10.3.2015) by S.I. 2015/634; (20.7.2015) by S.I. 2015/1537; (23.11.2015) by S.I. 2015/1930; (6.4.2017) by S.I. 2017/483; (2.2.2018) by S.I. 2018/138; (16.1.2019) by S.I. 2019/10; and (31.1.2019) by S.I. 2019/167)

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 [^{F1}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
 - [^{F2}(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.]
- [^{F3}(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—

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- (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 [^{F4}persons—
 - (i) who] have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time [^{F5}, 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—
- [^{F6}(za) universal credit,]
 - (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,
 - [^{F7}(ca) credits under section 23A of that Act,]
 - (d) [^{F8}a contributory allowance][^{F8}an employment and support allowance], and
 - (e) working tax credit.

Textual Amendments

- F1** Word in Sch. 1 para. 1(1)(a) substituted (1.11.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(2)**, 61(3); [S.I. 2010/2377](#), **art. 2(2)(b)**
- F2** Sch. 1 para. 1(1)(c) substituted (1.11.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(3)**, 61(3); [S.I. 2010/2377](#), **art. 2(2)(b)**
- F3** Sch. 1 para. 1(2)-(3A) substituted for Sch. 1 para. 1(2)(3) (1.10.2010 for specified purposes, 1.11.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(4)**, 61(3); [S.I. 2010/2377](#), **art. 2(1)(c)**, **(2)(c)**
- F4** Words in Sch. 1 para. 1(4)(a) substituted (29.11.2011) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(5)(a)**, 61(3); [S.I. 2011/2857](#), **art. 2(b)**
- F5** Words in Sch. 1 para. 1(4)(a) inserted (29.11.2011) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(5)(b)**, 61(3); [S.I. 2011/2857](#), **art. 2(b)**
- F6** [Sch. 1 para. 1\(5\)\(za\)](#) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 2 para. 65**; [S.I. 2013/983](#), **art. 3(1)(b)(i)**
- F7** [Sch. 1 para. 1\(5\)\(ca\)](#) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 1 para. 11**
- F8** Words in [Sch. 1 para. 1\(5\)\(d\)](#) substituted (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 3 para. 26(f)**; [S.I. 2013/983](#), **arts. 4(1)(b)**, 5, [Sch. 1](#) (with **arts. 6**, 9(1), 22, [Sch. 4](#)) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#);

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(23.11.2015) by S.I. 2015/1930; (6.4.2017) by S.I. 2017/483; (2.2.2018) by S.I. 2018/138; (16.1.2019) by S.I. 2019/10; and (31.1.2019) by S.I. 2019/167)

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.

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;
 - (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.

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- (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 [^{F9}a contributory allowance][^{F9}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

- F9** Words in Sch. 1 para. 3(2)(a) substituted (29.4.2013 for specified purposes) by Welfare Reform Act 2012 (c. 5), s. 150(3), Sch. 3 para. 26(f); S.I. 2013/983, arts. 4(1)(b), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by S.I. 2013/1511; (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (15.9.2014) by S.I. 2014/2321; (17.11.2014) by S.I. 2014/3067; (21.11.2014) by S.I. 2014/3094; (19.1.2015) by S.I. 2015/32 (as amended (10.2.2015) by S.I. 2015/101); (10.3.2015) by S.I. 2015/634; (20.7.2015) by S.I. 2015/1537; (23.11.2015) by S.I. 2015/1930; (6.4.2017) by S.I. 2017/483; (2.2.2018) by S.I. 2018/138; (16.1.2019) by S.I. 2019/10; and (31.1.2019) by S.I. 2019/167)

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
- C2** Sch. 1 para. 3(1)(f) modified (29.4.2013) by The Employment and Support Allowance Regulations 2013 (S.I. 2013/379), regs. 1(2), 14 (with reg. 1(3))

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)

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