

(2) For every year up to and including that in which the recipient ceased to be entitled to a bereavement benefit otherwise than by reason of remarriage [, forming a civil partnership,] or living together with [another person [as if they were a married couple or civil partners]], the recipient shall be credited with such earnings as may be required to enable the condition referred to above to be satisfied.]

The Social Security (Credits) Regulations 1975 Regulation 8C

In this regulation, "the Welfare Reform Act" means the Welfare Reform Act 2007. **This means that this regulation applies to old style ESA only.**

The Social Security (Credits) Regulations 1975 Regulation 2

8. As explained above, the law states that for Contributory Employment and Support Allowance a claimant needs to satisfy two contribution conditions.

The years used to determine entitlement to Employment and Support Allowance are the last two complete tax years before the benefit year in which the claim begins. In ~~the case~~ case, as her claim started on 07/02/2020, the relevant income tax years are **2017/2018** and **2018/2019**.

The first contribution condition is satisfied. Although ~~the claimant~~ has not paid any contributions in respect of any of the last two tax years she has paid appropriate contributions in any one tax year and was entitled to Carer's Allowance in the last complete tax year immediately before the relevant benefit year in which the first day of limited capability for work occurred (see document 46 - 51 & paras 2, 3 & 4 above).

The second contribution condition is not satisfied. ~~The claimant~~ does not satisfy the second contribution condition for tax year 2017/2018 as her earnings factor was £4181 (see document 40) which is less than 50 times the lower earnings limit for that year which, was £5650 (see document 52 & paragraph 5 above).

9. ~~The claimant~~ argues in her appeal that the second contribution condition is satisfied because of her award of Widowed Parents Allowance; Regulation 2 of the ESA Regulations 2013 interprets the Act as the Welfare Reform Act 2007. ~~The claimant~~ has requested that the Secretary of States outlines their interpretation of Regulation 2.

As detailed above ~~the claimant~~ is not entitled to new style ESA as she does not satisfy the second contribution condition in tax year 2017/2018. The law which covers the potential relaxation of the second contribution condition is The Social Security (Credits) Regulations 1975 as detailed at paragraphs 6 & 7 above and this covers old style ESA only. This regulation allows for a person who has been in receipt of a bereavement benefit (in this case Widowed Parents Allowance) to potentially satisfy the second contribution of old style ESA as it is governed by the Welfare Reform Act 2007 and the ESA Regulations 2008. No similar provisions have been made for new style ESA under the Welfare Reform Act 2012 and the ESA Regulations 2013.

An interpretation of Regulation 2 of the ESA Regulations 2013 is not appropriate as this does not govern the relaxation of the second contribution condition. ESA Regulations 2013 only