

# Department for Work and Pensions

ADJUDICATION AND CONSTITUTIONAL ISSUES DIVISION

## The Law Relating to Social Security

### Volumes 2, 3 and 4 Supplement 79 – June 2007

1. Supplements to The Law Relating to Social Security are issued at regular intervals. This supplement [79] includes amendments to the Contents Volume and Volumes 1, 2, 3, 4, 5, 6, 8, 9, 10, 11 and 12.
2. This package contains amendments to Volumes 2, 3 and 4 and incorporates S.I.s:  
2007/769      2007/776      2007/781      2007/804      2007/811      2007/1057  
2007/1175  
as well as various miscellaneous amendments.
3. This supplement is issued PDF format only. Please refer to ACI General Bulletin 01/2006, issued September 2006 for details.
4. The amended pages have been reprinted in full. The supplement number is printed at the bottom of each replacement page. This supplement also contains an update of the page check lists for Volumes 2, 3 and 4.
5. Due to space constraints, ACI can only reproduce legislation currently in force. Where users are instructed to remove pages they may like to consider the need to retain such pages for their own use.
6. Remove the sheets in the left-hand column and insert new sheets in the right-hand column (the numbers quoted are those printed at the bottom of the respective pages). When the revised sheets have been inserted, note the record of amendments at the back of Volume 4.
7. The last 2 supplement packages have amended the following volumes:  
Supplement No. 77 [December 2006]      Contents, 1, 2, 3, 4, 5, 6, 8, 11 and 12  
Supplement No. 78 [March 2007]      Contents, 1, 2, 3, 4, 5, 6, 8, 9, 10, 11 and 12
8. While every effort is made to ensure the accuracy of this work, the ACI Publications team would be happy to hear from anyone who spots errors. Please contact either:  
Quentin Chu on 0113 232 4861 or Jackie Wood on 0113 232 4991  
The Law Relating to Social Security is available on the DWP website at  
[www.dwp.gov.uk/advisers/docs/lawvols/bluevol/](http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/).
9. Starting in Supplement 76 the triangles ►◄ signifying additions, deletions or amendments to Statutory Instruments will be numbered to aid reference. Numbering will start at 1 on each page however, only those pages being updated will be affected.

## **Remove**

### **Volume 2**

2.2727 – 2.2728 (1 page)  
2.2739 – 2.2740 (-2.2746) (1 page)  
2.2759 – 2.2762 (2 pages)  
2.2907 – 2.2908 (- 2.2916) (1 page)  
2.5001 – 2.5002 (1 page)  
2.5091 – 2.5100 (2 pages)  
2.5103 – 2.5114 (3 pages)  
2.7501 – 2.9992 (6 pages)

### **Volume 3**

#### **Part 1**

3.13 – 3.14 (1 page)  
3.17 – 3.18 (-3.20) (1 page)  
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3.83 – 3.84 (-3.110) (1 page)  
3.1041 – 3.1046 (-3.1050) (3 pages)  
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3.1499 – 3.1500 (-3.2000) (1 page)  
3.2201 – 3.2214 (-3.2260) (5 pages)  
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3.4609 – 3.4610 (-3.4900) (1 page)  
3.5421 – 3.5424 (-3.5430) (2 pages)  
3.8169 – 3.8172 (-3.8200) (2 pages)  
3.8207 – 3.8208 (-3.8350) (2 pages)  
3.9991 – 3.9994 (2 pages)

### **Volume 4**

4.11 – 4.16 (-4.70) (3 pages)

## **Insert**

### **Volume 2**

2.2727 – 2.2728 (1 page)  
2.2739 – 2.2740 (-2.2746) (1 page)  
2.2759 – 2.2762 (2 pages)  
2.2907 – 2.2908 (- 2.2916) (1 page)  
2.5001 – 2.5002 (1 page)  
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2.5103 – 2.5114 (3 pages)  
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3.8207 – 3.8210 (-3.8350) (2 pages)  
3.9991 – 3.9994 (2 pages)

### **Volume 4**

4.11 – 4.16 (-4.70) (3 pages)

**Remove**

4.73 – 4.74 (-4.3000) (1 page)

4.3275 – 4.3276 (-4.3300) (1 page)

4.3941 – 4.3942 (1 page)

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4.5001 – 4.5002 (1 page)

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4.5119 – 4.5120 (1 page)

4.5403 – 4.5404 (-4.5450) (1 page)

4.5761 – 4.5762 (-4.5810) (1 page)

4.6893 – 4.6894 (1 page)

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**Insert**

4.73 – 4.74 (-4.3000) (1 page)

4.3275 – 4.3278 (-4.3300) (2 pages)

4.3941 – 4.3942 (1 page)

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[<sup>1</sup>“working life” has the meaning given by paragraph 5(8) of Schedule 3 to this Act].

[<sup>2</sup>(1A) For the purposes of Parts 1 to 5 and this Part of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

(2) Regulations [<sup>3</sup>made by the Treasury with the concurrence of the Secretary of State] may make provision modifying the meaning of “employment” for the purposes of any provision of Parts I to V and this Part of this Act.

(3) Provision may be made [<sup>3</sup>by the Treasury by regulations made with the concurrence of the Secretary of State] as to the circumstances in which a person is to be treated as residing or not residing with another person for any of the purposes of Parts I to V and this Part of this Act and as to the circumstances in which persons are to be treated for any of those purposes as residing or not residing together.

(4) A person who is residing with his spouse shall be treated for the purposes of Parts I to V and this Part of this act as entitled to any child benefit to which his spouse is entitled.

(5) Regulations may, for the purposes of any provision of those Parts under which the right to any benefit or increase of benefit depends on a person begin or having been entitled to child benefit, make provision whereby a person is to be treated as if he were or had been so entitled or as if he were not or had not been so entitled.

(6) For the purposes of Parts I to V and this Part of this Act a person is “permanently incapable of self-support” if (but only if) he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for the remainder of his life.

## PART VII

### INCOME-RELATED BENEFITS

#### *General*

**123.**—(1) Prescribed schemes shall provide for the following benefits (in this Act referred to as “income-related benefits”)— Income-related benefits.

- (a) income support;
- (b) [<sup>4</sup>“working families’ tax credit”];
- (c) [<sup>4</sup>“disabled person’s tax credit”];
- (d) housing benefit; and
- [<sup>5</sup>(e) council tax benefit.]

(2) The Secretary of State shall make copies of schemes prescribed under subsection (1)(a), (b) or (c) above available for public inspection at local offices of [<sup>6</sup>the Department for Work and Pensions] at all reasonable hours without payment.

<sup>1</sup> Defn. “working life” inserted (19.7.95) in s. 122(1) by Pensions Act 1995 (c. 26), s. 134(4).

<sup>2</sup> S. 122(1A) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 41.

<sup>3</sup> Words substituted in s. 122 (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 28.

<sup>4</sup> Words substituted (5.10.99) in s. 123(1)(b) and (c) by para. 2(f) of Sch. 1 to the Tax Credits Acts 1999 (c. 10).

<sup>5</sup> S. 123(1)(e) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 1(1) for purposes of council tax benefit from 1.4.93.

<sup>6</sup> Words in s. 123(2) substituted (27.6.02) by para. 7 of the Sch. S.I. 2002/1397.

**SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)**

**Ss. 123-124**

- (3) Every authority granting housing benefit—
- (a) shall take such steps as appear to them appropriate for the purpose of securing that persons who may be entitled to housing benefit from the authority become aware that they may be entitled to it; and
  - (b) shall make copies of the housing benefit scheme, with any modifications adopted by them under the Administration Act, available for public inspection at their principal office at all reasonable hours without payment.

[<sup>1</sup>(4) Each

[<sup>2</sup>each billing authority and in Scotland each local authority]

- (a) shall take such steps as appears to it appropriate for the purpose of securing that any person who may be entitled to council tax benefit in respect of council tax payable to the authority becomes aware that he may be entitled to it; and
- (b) shall make copies of the council tax benefit scheme, with any modifications adopted by it under the Administration Act, available for public inspection at its principal office at all reasonable hours without payment.]

*Income support*

Income support.

**124.—**(1) A person in Great Britain is entitled to income support if—

- [<sup>3</sup>(a) he is of or over the age of 16;]
- [<sup>4</sup>(aa) he has not attained the qualifying age for state pension credit;]
- (b) he has no income or his income does not exceed the applicable amount;
- (c) he is not engaged in remunerative work and, if he is a member of a [<sup>5</sup> couple], the other member is not so engaged; [...<sup>6</sup>]
- [<sup>7</sup>(d) except in such circumstances as may be prescribed, he is not receiving relevant education;]
- [<sup>8</sup>(e) he falls within a prescribed category of person; and
- (f) he is not entitled to a jobseeker's allowance and, if he is a member of a [<sup>5</sup>couple], the other member of the couple is not [<sup>9</sup>, and the couple are not,] entitled to an income-based jobseeker's allowance [<sup>4</sup>; and
- (g) if he is a member of a [<sup>5</sup>couple], the other member of the couple is not entitled to state pension credit.]

<sup>1</sup> S. 123(4) substituted for s. 123(4)-(6) (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 1(2), for purposes of council tax and council tax benefit from 1.4.93.

<sup>2</sup> Words substituted in s. 123(4) (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 1.

<sup>3</sup> S. 124(1)(a) substituted (7.10.96) by para. 30(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>4</sup> Paras. (aa) and (g) inserted in s. 124(1) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 2.

<sup>5</sup> Words substituted in s. 124(1) (5.12.05) by the Civil Partnership Act 2004 c. 33, Sch. 24, para. 42.

<sup>6</sup> Word deleted (7.10.96) from end of s. 124(1)(c) by para. 30(3) of Sch. 2, and by Sch. 3, to Jobseekers Act 1995 (c. 18).

<sup>7</sup> S. 124(1)(d) substituted (7.10.96) by para. 30(4) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>8</sup> Paras. (e) and (f) added (12.12.95 for reg. making purposes, 7.10.96 for other purposes) to s. 124(1) by para. 30(5) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>9</sup> Words inserted (19.3.01) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 7 & Sch. 8, para. 28.

*Housing benefit*

- 130.**—(1) A person is entitled to housing benefit if— Housing benefit.
- (a) he is liable to make payments in respect of a dwelling in Great Britain which he occupies as his home;
  - (b) there is an appropriate maximum housing benefit in his case; and
  - (c) either—
    - (i) he has no income or his income does not exceed the applicable amount; or
    - (ii) his income exceeds that amount, but only by so much that there is an amount remaining if the deduction for which subsection (3)(b) below provides is made.

(2) In subsection (1) above “payments in respect of a dwelling” means such payments as may be prescribed, but the power to prescribe payments does not include power to prescribe

- [<sup>1</sup>(a) payments to a billing authority or to a local authority in Scotland in respect of council tax;]
- (b) mortgage payments, or, in relation to Scotland, payments under heritable securities.]

- (3) Where a person is entitled to housing benefit, then—
- (a) if he has no income or his income does not exceed the applicable amount the amount of the housing benefit shall be the amount which is the appropriate maximum housing benefit in his case; and
  - (b) if his income exceeds the applicable amount, the amount of the housing benefit shall be what remains after the deduction from the appropriate maximum housing benefit of prescribed percentages of the excess of his income over the applicable amount.

(4) Regulations shall prescribe the manner in which the appropriate maximum housing benefit is to be determined in any case.

(5) Regulations under subsection (4) above may provide for benefit to be limited by reference to determinations made by rent officers in exercise of functions conferred under section 21 of the Housing Act 1988 or section 70 of the Housing (Scotland) Act 1988. 1988 c.50.  
1988 c.43

*[<sup>3</sup>Council tax benefit*

- 131.**—(1) A person is entitled to council tax benefit in respect of a particular day falling after 31st March 1993 if the following are fulfilled, namely, the condition set out in subsection (3) below and either— Council tax benefit
- (a) each of the two conditions set out in subsections (4) and (5) below; or
  - (b) the condition set out in subsection (6) below.

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<sup>1</sup> Paras. (a) and (b) substituted (6.3.92) for words in s.130(2) by L.G.f. Act 1992 (c. 14), Sch. 9, para. 3 for purposes of council tax and council tax benefit from 1.4.93.  
<sup>2</sup> S. 130(2)(a) substituted (3.7.07) by the Welfare Reform Act 2007, Sch. 5, para. 1.  
<sup>3</sup> S.131 substituted (6.3.92) by L.G.F. Act 1992 (c.14), Sch. 9, para. 4, for purposes of council tax and council tax benefit from 1.4.93.

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- (2) Council tax benefit—
- (a) shall not be allowed to a person in respect of any day falling before the day on which his entitlement is to be regarded as commencing for that purpose by virtue of paragraph (1) of section 6(1) of the Administration Act; but
  - (b) may be allowed to him in respect of not more than 6 days immediately following the day on which his period of entitlement would otherwise come to an end, if his entitlement is to be regarded by virtue of that paragraph as not having ended for that purposes.
- (3) The main condition for the purposes of subsection (1) above is that the person concerned—
- (a) is for the day liable to pay council tax in respect of a dwelling of which he is a resident; and
  - (b) is not a prescribed person or a person of a prescribed class.
- (4) The first condition for the purposes of subsection (1)(a) above is that there is an appropriate maximum council tax benefit in the case of the person concerned.
- (5) The second condition for the purpose of subsection (1)(a) above is that—
- (a) the day falls within a week in respect of which the person concerned has no income;
  - (b) the day falls within a week in respect of which his income does not exceed the applicable amount; or
  - (c) neither paragraph (a) nor paragraph (b) above is fulfilled in his case but amount A exceeds amount B where—
    - (i) amount A is the appropriate maximum council tax benefit in his case; and
    - (ii) amount B is a prescribed percentage of the difference between his income in respect of the week in which the day falls and the applicable amount.
- (6) The condition for the purposes of subsection (1)(b) above is that—
- (a) no other resident of the dwelling is liable to pay rent to the person concerned in respect of the dwelling; and
  - (b) there is an alternative maximum council tax benefit in the case of that person which is derived from the income or aggregate incomes of one or more residents to whom this subsection applies.
- (7) Subsection (6) above applies to any other resident of the dwelling who—
- (a) is not a person who, in accordance with Schedule 1 to the Local Government Finance Act 1992, falls to be disregarded for the purposes of discount; and
  - (b) is not a prescribed person or a person of a prescribed class.
- (8) subject to subsection (9) below, where a person is entitled to council tax benefit in respect of a day, the amount to which he is entitled shall be—
- (a) if subsection (5)(a) or (b) above applies, the amount which is the appropriate maximum council tax benefit in his case;
  - (b) if subsection (5)(c) above Applies, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given by that subsection; and
  - (c) if subsection (6) above applies, the amount which is the alternative maximum council tax benefit in his case.

**137.**—(1) In this Part of this Act, unless the context otherwise requires—  
 [1“billing authority” has the same meaning as in Part I of the Local Government Finance Act 1992;]  
 “child” means a person under the age of 16;  
 [...<sup>2</sup>]  
 [3“couple” means—  
 (a) a man and woman who are married to each other and are members of the same household;  
 (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;  
 (c) two people of the same sex who are civil partners of each other and are members of the same household; or  
 (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;]  
 “dwelling” means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;  
 “family” means—  
 (a) a [3couple];  
 (b) a [3couple] and a member of the same household for whom one of them is or both are responsible and who is a child or a person of a prescribed description;  
 (c) except in prescribed circumstances, a person who is not a member of a [3couple] and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;  
 [4“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]  
 “industrial injuries scheme” means a scheme made under Schedule 8 to this Act or section 159 of the 1975 Act or under the Old Cases Act;  
 [...<sup>5</sup>]  
 [6“local authority” in relation to Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;]  
 [...<sup>3</sup>]  
 [...<sup>2</sup>]  
 [7“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26);]  
 “prescribed” means specified in or determined in accordance with regulations;  
 [7“the qualifying age for state pension credit is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—  
 (a) in the case of a woman, pensionable age; or

<sup>1</sup> Defn. of “billing authority” substituted (6.3.92) for defn. of “charging authority” in s. 137(1) by L.G.f. Act 1992 (c. 14), Sch. 9, para. 9(a) for purposes of council tax and council tax benefit from 1.4.93.  
<sup>2</sup> Defns. of “contribution period”, “the 1987 Act” and “the 1988 Act” in s. 137(1) repealed except for purposes of community charge and community charge benefits for any day before 1.4.93 (L.G.f. Act 1992 (c. 14), Sch. 9, para. 9(b) and Sch. 14).  
<sup>3</sup> In s. 137(1) defns. of “couple” inserted, “married couple” omitted and words substituted in defn. of “family”; s. 137(1A) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 46.  
<sup>4</sup> Defn. of “income-based jobseeker’s allowance” inserted (7.10.96) into s.137(1) by para. 35(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).  
<sup>5</sup> Defn. of “levying authority” in s. 137(1) repealed (1.4.96) by para. 174(5) of Sch. 13 to, and by Sch. 14 to, Local Government etc. (Scotland) Act 1994 (c. 39).  
<sup>6</sup> Defn., of “local authority” inserted (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 1.  
<sup>7</sup> Defns. of “pensionable age”, “the qualifying age for state pension credit” & “state pension credit” inserted (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 4.

## SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

### Ss. 137-138

1989 c. 24.

- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;  
“state pension credit” means state pension credit under the State Pension Credit Act 2002;]  
[...<sup>1</sup>  
“war pension scheme” means a scheme under which war pensions (as defined in section 25 of the Social Security Act 1989) are provided;  
“week”, in relation to [<sup>2</sup>council tax benefit], means a period of 7 days beginning with a Monday.

[<sup>1</sup>(1A) For the purposes of this Part, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

- (2) Regulations may make provision for the purposes of this Part of this Act—
- (a) as to circumstances in which a person is to be treated as being or not being in Great Britain;
  - (b) continuing a person’s entitlement to benefit during periods of temporary absence from Great Britain;
  - (c) as to what is or is not to be treated as remunerative work or as employment;
  - [<sup>3</sup>(d) as to circumstances in which a person is or is not to be treated as engaged or normally engaged in remunerative work;]
  - (e) as to what is or is not to be treated as relevant education;
  - (f) as to circumstances in which a person is or is not to be treated as receiving relevant education;
  - (g) specifying the descriptions of pension increases under war pension schemes or industrial injuries schemes that are analogous to the benefits mentioned in section 129(2)(b)(i) to (iii) above;
  - (h) as to circumstances in which a person is or is not to be treated as occupying a dwelling as his home;
  - (i) for treating any person who is liable to make payments in respect of a dwelling as if he were not so liable;
  - (j) for treating any person who is not liable to make payments in respect of a dwelling as if he were so liable;
  - (k) for treating as included in a dwelling any land used for the purposes of the dwelling;
  - (l) as to circumstances in which persons are to be treated as being or not being members of the same household;
  - (m) as to circumstances in which one person is to be treated as responsible or not responsible for another.

## PART VIII

### THE SOCIAL FUND

Payments out of the social fund.

**138.**—[<sup>4</sup>(1) There may be made out of the social fund, in accordance with this Part of this Act—

- (a) payments of prescribed amounts, whether in respect of prescribed items or

<sup>1</sup> In s. 137(1) defn. of “unmarried couple” omitted s. 137(1A) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 46.

<sup>2</sup> Words in defn. of “week” in s. 137(1) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 9(d), for purposes of council tax and council tax benefit from 1.4.93.

<sup>3</sup> S. 137(2)(d) substituted (7.10.96) by para. 35(3) of Sch. 2 to Jobseekers Act 1995 (c. 18). (The effect of this amendment was to delete from s. 137(2)(d) the reference to circumstances for treating people as available for employment or as actively seeking employment.)

<sup>4</sup> S. 138(1) substituted inserted (5.4.99) by S.S. Act ‘98 (c. 14), s. 70.

otherwise, to meet, in prescribed circumstances, maternity expenses and funeral expenses; and

- (b) payments by way of community care grant, crisis loan or budgeting loan to meet other needs in accordance with directions given or guidance issued by the Secretary of State.

(2) Payments may also be made out of that fund, in accordance with this Part of this Act, of a prescribed amount or a number of prescribed amounts to prescribed descriptions of persons, in prescribed circumstances to meet expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather.

(3) The power to make a payment out of the social fund such as is mentioned in subsection (1)(b) above may be exercised by making a payment to a third party with a view to the third party providing, or arranging for the provision of, goods or services for the applicant.

(4) In this section “prescribed” means specified in or determined in accordance with regulations.

[<sup>1</sup>(5) In this Part—

“budgeting loan” means a loan awarded in circumstances specified in directions issued by the Secretary of State for the purpose of defraying an intermittent expense;

“community care grant” means a grant awarded in circumstances so specified for the purpose of meeting a need for community care;

“crisis loan” means a loan awarded in circumstances so specified for the purpose of meeting an immediate short term need;

and any reference in this subsection to meeting a need or defraying an expense includes a reference to helping to meet the need or to defray the expense.]

**139.**—[<sup>2</sup>(1) Whether a payment mentioned in section 138(1)(b) above is to be awarded, and how much it is to be, shall be determined by an appropriate officer, that is to say, an officer of the Secretary of State who, acting under his authority, is exercising functions of the Secretary of State in relation to payments so mentioned.]

Awards by social fund officers.

(2) [<sup>2</sup>An appropriate officer] may determine that an award shall be payable in specified instalments at specified times.

(3) [...<sup>2</sup>]

(4) An award [<sup>2</sup>of a crisis loan or a budgeting loan] shall be repayable upon such terms and conditions as before the award is paid the Secretary of State notifies to the person by or on behalf of whom the application for it was made.

(5) Payment of an award shall be made to the applicant unless [<sup>2</sup>the appropriate officer] determines otherwise.

**140.**—(1) In determining whether to make an award [<sup>3</sup>of a community care grant or a crisis loan] to the applicant or the amount or value to be awarded [<sup>2</sup>an appropriate officer] shall have regard, subject to subsection (2) below, to all the circumstances of the case and, in particular—

Principles of determination.

- (a) the nature, extent and urgency of the need;
- (b) the existence of resources from which the need may be met;
- (c) the possibility that some other person or body may wholly or partly meet it;

<sup>1</sup> S. 138(5) inserted (5.4.99) by S.S. Act 1998 (c. 14), s. 70.

<sup>2</sup> In s. 139(1) substituted; (3) ceases to have effect; words substituted & in s. 140 words substituted (29.11.99) by the Social Security Act 1998 (c. 14), Sch. 7, paras. 72.

<sup>3</sup> In s. 140 words inserted in (1) (5.4.99) by the Social Security Act 1998 (c. 14), s. 71.

**SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)**

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- (d) where the payment is repayable, the likelihood of repayment and the time within which repayment is likely;
- (e) any relevant allocation under section 168(1) to (4) of the Administration Act.

[<sup>1</sup>(1A) Subject to subsection (2) below, in determining whether to make an award of a budgeting loan to the applicant, or the amount or value to be awarded, an appropriate officer shall have regard to—

- (a) such of the applicant's personal circumstances as are of a description specified in directions issued by the Secretary of State; and
- (b) the criteria specified in paragraphs [<sup>2</sup>(b), (d) and (e)] of subsection (1) above;

[...<sup>2</sup>]

(2) [<sup>3</sup>An appropriate officer] shall determine any question in accordance with any general directions issued by the Secretary of State and in determining any question shall take account of any general guidance issued by him.

[<sup>2</sup>(3) Without prejudice to the generality of subsection (2), the Secretary of State may issue directions under that subsection for the purpose of securing that allocations under section 168 of the Administration Act are not exceeded.]

(4) Without prejudice to the generality of subsection (2) above, the power to issue general directions conferred on the Secretary of State by that subsection includes power to direct—

- (a) that in circumstances specified in the direction [<sup>3</sup>an appropriate officer] shall not determine an application and, without prejudice to the generality of this paragraph, that [<sup>2</sup>an appropriate officer] shall not determine an application which is made before the end of a specified period after the making of an application by the same person for a payment such as is mentioned in section 138(1)(b) above to meet the same need and without there having been any relevant change of circumstances since the previous application;

[<sup>1</sup>(aa) that in circumstances specified in the direction an application for an award of a community care grant may be treated as an application for an award of a crisis loan, and vice versa;]

- (b) that for a category of need specified in the direction [<sup>2</sup>an appropriate officer] shall not award less than an amount specified in the direction;
- (c) that for a category of need specified in the direction [<sup>2</sup>an appropriate officer] shall not award more than an amount so specified;
- (d) that payments to meet a category of need specified in the direction shall in all cases or in no case be made by instalments;
- (e) [...<sup>4</sup>]
- (f) that a payment such as is mentioned in section 138(1)(b) above shall only be awarded to a person if either—

<sup>1</sup> In s. 140 paras. (1A) & (4)(aa) inserted (5.4.99) by the Social Security Act 1998 (c. 14), s. 71.

<sup>2</sup> In s. 140 words substituted and repealed in (1A) & (3) substituted (3.7.05) by the Welfare Reform Act 2005, (c. 5), s. 54 & Sch. 7, para. 2.

<sup>3</sup> In s. 140 words substituted (29.11.99) by the Social Security Act 1998 (c. 14), Sch. 7, paras. 73.

<sup>4</sup> S. 140(4)(e) ceases to have effect (5.4.99) by s. 71 & 143(3) of the Social Security Act 1998 (c. 14).

- (iii) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and]
- (b) the other person had earnings in any week,

the beneficiary's right to payment of increases for the following week under this paragraph shall be determined in accordance with sub-paragraph (4) below.

- (4) No such increase shall be payable—
- (a) in respect of the first child [<sup>1</sup>or qualifying young persons] where the earnings were [<sup>2</sup>£180] or more; and
  - (b) in respect of a further child [<sup>1</sup>or qualifying young persons] for each complete [<sup>2</sup>£24] by which the earnings exceeded [<sup>2</sup>£180].

(5) The Secretary of State may by order substitute larger amounts for the amounts for the time being specified in sub-paragraph (4) above.

(6) In this paragraph “week” means such period of 7 days as may be prescribed by regulations made for the purposes of this paragraph.

*Additional provisions as to increase under paragraph 4*

5.—(1) An increase under paragraph 4 above of any amount in respect of a particular child [<sup>1</sup>or qualifying young persons] shall for any period be payable only if during that period one or other of the following conditions is satisfied with respect of the child [<sup>1</sup>or qualifying young persons]—

- (a) the beneficiary would be treated for the purposes of Part IX of this Act as having the child [<sup>1</sup>or qualifying young person] living with him; or
- (b) the requisite contributions are being made to the cost of providing for the child [<sup>1</sup>or qualifying young person].

(2) The condition specified in paragraph (b) of sub-paragraph (1) above is to be treated as satisfied if, and only if—

- (a) such contributions are being made at a weekly rate not less than the amount referred to in that sub-paragraph—
  - (i) by the beneficiary; or
  - (ii) where the beneficiary is one of two spouses residing together, by them together; and
- (b) except in prescribed cases, the contributions are over and above those required for the purposes of satisfying section 143(1)(b) above.

*Increases for adult dependants*

6.—(1) The weekly rate of a disablement pension where the beneficiary is entitled to an unemployability supplement shall be increased under this paragraph for any period during which—

- (a) the beneficiary is—
  - (i) residing with his spouse, or
  - (ii) contributing to the maintenance of his spouse [<sup>3</sup>or civil partner] at the requisite rate; or
- (b) a person—
  - (i) who is neither the spouse [<sup>3</sup>or civil partner] of the beneficiary nor a child [<sup>1</sup>or qualifying young person], and

<sup>1</sup> Words inserted & substituted in paras. 4, 5 & 6 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16.

<sup>2</sup> Amounts in para. 4 substituted (11.4.07) by Art. 2 of S.I. 2007/769.

<sup>3</sup> Words inserted in para. 6(1) (5.12.05) by The Civil Partnership Act 2004 (c. 33), Sch. 24, para. 52.

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(ii) in relation to whom such further conditions as may be prescribed are fulfilled,

has the care of [<sup>1</sup>one or more children or qualifying young persons] in respect of whom the beneficiary is entitled to child benefit.

(2) the amount of the increase under this paragraph shall be that specified in Schedule 4, Part V, paragraph 8 and the requisite rate for the purposes of sub-paragraph (1)(a) above is a weekly rate not less than that amount.

(3) Regulations may provide that, for any period during which—

(a) the beneficiary is contributing to the maintenance of his or her spouse [<sup>1</sup>or civil partner] at the requisite rate, and

(b) the weekly earnings of the spouse [<sup>2</sup>or civil partner] exceed such amount as may be prescribed,

there shall be no increase of benefit under this paragraph.

(4) Regulations may provide that, for any period during which the beneficiary is residing with his or her spouse [<sup>2</sup>or civil partner] and the spouse [<sup>2</sup>or civil partner] has earnings—

(a) the increase of benefit under this paragraph shall be subject to a reduction in respect of the spouse's [<sup>2</sup>or civil partner's] earnings; or

(b) there shall be no increase of benefit under this paragraph.

(5) Regulations may, in a case within sub-paragraph (1)(b) above in which the person there referred to is residing with the beneficiary and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this paragraph, but subject, taking account of the earnings of the person residing with the beneficiary, other than such of that person's earnings from employment by the beneficiary as may be prescribed, to provisions comparable to those that may be made by virtue of sub-paragraph (4) above.

(6) Regulations under this paragraph may, in connection with any reduction or extinguishment of an increase in benefit in respect of earnings, prescribe the method of calculating or estimating the earnings.

(7) A beneficiary shall not be entitled to an increase of benefit under this paragraph in respect of more than one person for the same period.

*Earnings to include occupational and personal pensions for purposes of disablement pension*

7.—(1) Except as may be prescribed, any reference to earnings in paragraph 4 or 6 above includes a reference to payments by way of occupational or personal pension.

*Where increase of benefit has been payable continuously since Oct. 1989, the reference to personal pension in para. 7(1) above is subject to the saving in reg. 4(2) of S.I. 1989/1690.*

(2) For the purposes of those paragraphs, the Secretary of State may by regulations provide, in relation to cases where payments by way of occupational or personal pension are made otherwise than weekly, that any necessary apportionment of the payments shall be made in such manner and on such basis as may be prescribed.

<sup>1</sup> Words inserted in paras. 6(1) (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16.

<sup>2</sup> Words inserted in paras. 6(3) & (4) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 52.

# Social Security Contributions (Transfer of Functions, etc.) Act 1999

## CHAPTER 2

### ARRANGEMENT OF SECTIONS

#### PART I GENERAL

##### *Transfer of functions*

##### *Section*

1. Transfer to Board of certain functions relating to contributions, etc.
2. Transfer of other functions to Treasury or Board.

##### *Exercise by Board of functions transferred to them*

3. General functions of Board.
4. Recovery of contributions where income tax recovery provisions not applicable.
5. Powers relating to enforcement.
6. Disclosure of information.
7. Use of information by Board. (*repealed*)

#### PART II DECISIONS AND APPEALS

8. Decisions by officers of Board.
9. Regulations with respect to decisions.
10. Decisions varying or superseding earlier decisions.
11. Appeals against decisions of Board.
12. Exercise of right of appeal.
13. Regulations with respect to appeals.
14. Matters arising as respects decisions.
15. Power to make provision for period before commencement of new social security appeal provisions.
16. Decisions under Pension Schemes Act 1993.
17. Arrangements for discharge of decision-making functions.
18. Amendments relating to decisions and appeals.
19. Interpretation of Part II.

**PART III  
MISCELLANEOUS AND SUPPLEMENTAL**

20. Payments in respect of money purchase contracted-out pension schemes to be made out of National Insurance Fund.
21. Property, rights and liabilities.
22. Special provision for certain contracts.
23. Power to transfer functions by Order in Council.
24. Provision for Northern Ireland.
25. Orders and regulations.
26. Savings, transitional provisions, consequential amendments, repeals and revocations.
27. Interpretation.
28. Short title, commencement and extent.

**SCHEDULE**

- Schedule 1 — Transfer of Contributions Agency functions and associated functions.
- Schedule 2 — Transfer of functions under subordinate legislation.
- Schedule 3 — Transfer of other functions to Treasury or Board.
- Schedule 4 — Recovery of contributions where income tax recovery provisions not applicable.
- Schedule 5 — Enforcement.
- Schedule 6 — Information.
- Schedule 7 — Decisions and appeals.
- Schedule 8 — Savings and transitional provisions.
- Schedule 9 — Further consequential amendments.
- Schedule 10— Repeals and revocations.
  - Part I— Repeals.
  - Part II— Revocations.

shall, without prejudice to any other remedy, be recoverable summarily as a civil debt in proceedings commenced in the name of an authorised officer.

(2) All or any of the sums due from any one person in respect of contributions, or interest or penalties in respect of contributions, (being sums which are by law recoverable summarily) may be included in the same complaint, summons, order, warrant or other document required by law to be laid before justices or to be issued by justices, and every such document shall, as respects each such sum, be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

(3) Proceedings under this paragraph in England and Wales may be brought—

- (a) in the case of Class 2 contributions or interest or penalties in respect of such contributions, at any time before the end of the year following the tax year in which the contributor becomes liable to pay the contributions, and
- (b) in any other case, not later than the first anniversary of the day on which the contributions became due.

(4) In sub-paragraph (1) above, the expression “recoverable summarily as a civil debt” in respect of proceedings in Northern Ireland means recoverable in proceedings under Article 62 of the Magistrates’ Courts (Northern Ireland) Order 1981.

(5) In this paragraph—

“the prescribed sum” means the sum for the time being specified in section 65(1) of the Taxes Management Act 1970 (recovery of income tax, etc. in magistrates’ courts);

“tax year” means the twelve months beginning with 6th April in any year.

*County courts*

**3.—**(1) Without prejudice to any other remedy, any sum which is due by way of contributions or by way of interest or penalty in respect of contributions may—

- (a) in England and Wales, and
- (b) in Northern Ireland, where the amount does not exceed the limit specified in Article 10(1) of the County Courts (Northern Ireland) Order 1980,

be sued for and recovered from the person liable as a debt due to the Crown by proceedings in a county court commenced in the name of an authorised officer.

(2) An authorised officer may conduct any proceedings under this paragraph before a county court in England and Wales, although not a barrister or solicitor.

(3) In this paragraph as it applies in Northern Ireland, “county court” means a county court held for a division under the County Courts (Northern Ireland) Order 1980.

(4) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph, and Part III of the County Courts (Northern Ireland) Order 1980 (general civil jurisdiction) shall apply for the purposes of this paragraph in Northern Ireland.

*Sheriff courts in Scotland*

**4.—**(1) In Scotland, any sum which is due by way of contributions or by way of interest or penalty in respect of contributions may, without prejudice to any other remedy, be sued for and recovered from the person liable as a debt due to the Crown by proceedings commenced in the sheriff court in the name of an authorised officer.

(2) An authorised officer may conduct any proceedings under this paragraph, although not an advocate or solicitor.

(3) Paragraphs 2 and 3 above shall not apply in Scotland.

**SOCIAL SECURITY CONTRIBUTIONS (TRANSFER OF FUNCTIONS, ETC.) ACT 1999 (c. 2)**

*General*

5.—(1) Proceedings may be brought for the recovery of the total amount of Class 1 or Class 1A contributions which an employer has become liable to pay on a particular date and any sum due by way of interest or penalty in respect of those contributions without distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question; and for the purposes of proceedings under any of paragraphs 2 to 4 above that total amount shall be one cause of action or one matter of complaint.

(2) Nothing in sub-paragraph (1) above shall prevent the bringing of separate proceedings for the recovery of each of the several amounts of Class 1 or Class 1A contributions which the employer is liable to pay.

## SCHEDULE 5

### ENFORCEMENT

1. [...<sup>1</sup>]

[...<sup>2</sup>]

3. [...<sup>1</sup>]

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<sup>1</sup> Paras. 1 & 3 of Sch. 5. repealed (1.9.04) by the National Insurance Contributions and Statutory Payments Act 2004 (c. 3), Sch. 2.

<sup>2</sup> Para. 2 of Sch. 5 repealed (2.4.01) by s. 85 of the Child Support, Pensions and Social security Act 2000 (c. 19).

## **SOCIAL SECURITY CONTRIBUTIONS (TRANSFER OF FUNCTIONS, ETC.) ACT 1999 (c. 2)**

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**4.—**(1) Section 111 of the Social Security Administration Act 1992 (delay, obstruction etc. of inspector) is amended as follows.

(2) In subsection (1)–

- (a) in paragraph (a), after “this Act” there is inserted “other than an Inland Revenue power”, and
- (b) in paragraph (b), after “this Act” there is inserted “otherwise than in the exercise of an Inland Revenue power”.

(3) After subsection (2) there is inserted–

“(3) In subsection (1) “Inland Revenue power” means any power conferred on an officer of the Inland Revenue by section 110ZA above or by virtue of section 110(5) above.

(4) Where by virtue of section 110(5) above any power conferred by section 110 above is exercised by an officer of the Inland Revenue, section 98 of the Taxes Management Act 1970 shall apply as if the reference in that section to section 110ZA above included a reference to section 110 above.”

**5.** In section 113 of the Social Security Administration Act 1992 (breach of regulations), in subsection (2)–

- (a) for “Secretary of State”, in both places where it occurs, there is substituted “Inland Revenue”, and
- (b) in paragraph (e), for “his” there is substituted “their”.

**6.** Section 114A of the Social Security Administration Act 1992 (which imposes penalties relating to contributions but is not yet in force) shall cease to have effect.

**7.—**(1) Section 118 of the Social Security Administration Act 1992 (evidence of non-payment) is amended as follows.

(2) In subsection (1), for “Secretary of State” there is substituted “Inland Revenue”.

(3) Subsections (1A) and (2) shall cease to have effect.

(4) In subsection (3), the words “as is mentioned in subsection (1) or (2) above” are omitted.

(5) In subsection (4), for “Secretary of State” there is substituted “Inland Revenue”.

(6) For subsection (7) there is substituted–

“(7) In this section “authorised officer” means any officer of the Inland Revenue authorised by them for the purposes of this section.”

**8.** In section 121A of the Social Security Administration Act 1992 (recovery of contributions etc. in England and Wales), in subsection (9), for “Secretary of State” and “him” there are substituted respectively “Inland Revenue” and “them”.

**9.** In section 121B of the Social Security Administration Act 1992 (recovery of contributions etc. in Scotland)–

- (a) in subsection (5), for “Secretary of State,” there is substituted “Inland Revenue”, and
- (b) in subsection (6), for “Secretary of State” and “him” there are substituted respectively “Inland Revenue” and “them”.

**10.** In section 121C of the Social Security Administration Act 1992 (liability of directors etc. for company’s contributions), for “Secretary of State”, in each place where it occurs, there is substituted “Inland Revenue”.

**11.—**(1) Section 121D of the Social Security Administration Act 1992 (appeals in relation to personal liability notices) is amended as follows.

- (c) the Office for National Statistics, and
- (d) the Occupational Pensions Regulatory Authority.”

**4.** Section 122A of the Social Security Administration Act 1992 (supply of information by Inland Revenue for purposes of contributions) shall cease to have effect.

**5.** In section 122B(2)(b) of the Social Security Administration Act 1992 (supply of other government information for fraud prevention and verification), the word “contributions” is omitted.

**6.** In Schedule 4 to the Social Security Administration Act 1992, the following provisions shall cease to have effect—

- (a) in Part I, the entry “A member or officer of the Commissioners of Inland Revenue”, and
- (b) in Part II, paragraph 4.

**7.—(1)** Section 158 of the Pension Schemes Act 1993 (disclosure of information between government departments) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained or held for the purposes of Part III of this Act from being disclosed—

- (a) to the Secretary of State,
- (b) to the Department of Health and Social Services for Northern Ireland, or
- (c) to an officer of either of them authorised to receive such information,

in connection with the operation of this Act or of any corresponding enactment of Northern Ireland legislation.”

(3) In subsection (5), for “Subsections (1) to (3)” there is substituted “Subsections (1) and (1A)”.

(4) In subsection (6)—

- (a) after “subsection (1)” there is inserted “or (1A)”, and
- (b) after paragraph (c) there is inserted

“or (ca) for the purposes of Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 or any corresponding provisions of Northern Ireland legislation.”

**8.** In section 158A of the Pension Schemes Act 1993 (disclosure of information to other persons or bodies), after subsection (1) there is inserted—

“(1A) The Inland Revenue may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on them or on their officers, disclose any information received by them in connection with their functions under Part III of this Act to any person specified in the first column of the Table in subsection (1) if they consider that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.”

Unauthorised disclosure of information

**9.—(1)** Section 182 of the Finance Act 1989 (disclosure of information) is amended as follows.

(2) In subsection (1)—

**SOCIAL SECURITY CONTRIBUTIONS (TRANSFER OF FUNCTIONS, ETC.) ACT 1999 (c. 2)**

**Sch. 6**

- (a) after “tax functions” there is inserted “or social security functions”, and
- (b) for the words from “those functions” to the end there is substituted—

“any of those functions—

- (a) to tax or duty in the case of any identifiable person,
- (b) to contributions payable by or in respect of any identifiable person, or
- (c) to statutory sick pay or statutory maternity pay in respect of any identifiable person.”

- (3) After subsection (2) there is inserted—

“(2A) In this section “social security functions” means—

- (a) the functions relating to contributions, statutory sick pay or statutory maternity pay—
  - (i) of the Board and their officers,
  - (ii) of any person carrying out the administrative work of the General Commissioners or the Special Commissioners, and
  - (iii) of any other person providing, or employed in the provision of, services to any person mentioned in sub-paragraph (i) or (ii) above, and
- (b) the functions under Part III of the Pension Schemes Act 1993 or Part III of the Pension Schemes (Northern Ireland) Act 1993 of the Board and their officers and any other person providing, or employed in the provision of, services to the Board or their officers.”

- (4) In subsection (4)—

- (a) in paragraph (b), after the words “tax functions” there is inserted “or social security functions”, and
- (b) in paragraph (c), for the words from “tax functions” to the end there is substituted—

“tax functions or social security functions—

- (i) to tax or duty in the case of any identifiable person,
- (ii) to contributions payable by or in respect of any identifiable person, or
- (iii) to statutory sick pay or statutory maternity pay in respect of any identifiable person.”

- (5) In subsection (5)(b), after “tax or duty” there is inserted “or to contributions, statutory sick pay or statutory maternity pay”.

- (6) In subsection (10), after the definition of “the Commissioners” there is inserted—

““contributions” means contributions under Part I of the Social Security Contributions and Benefits Act 1992 or Part I of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”.

*Obtaining information for tax purposes from social security authorities*

**10.—(1)** Section 110 of the Finance Act 1997 (obtaining by Inland Revenue and Commissioners of Customs and Excise of information from social security authorities) is amended as follows.

- (2) In subsection (5)(a), the words “social security contributions” are omitted.
- (3) After subsection (5) there is inserted—

“(5A) Nothing in this section affects any disclosure authorised by section 121F of the Social Security Administration Act 1992 (supply to Inland Revenue of information for purposes of contributions, statutory sick pay or statutory maternity pay of information held by Secretary of State).”

## SCHEDULE 7

### DECISIONS AND APPEALS

*Taxes Management Act 1970 (c. 9)*

**1. – 3.** . . . . . *outside scope of this work, See Annex 1, page 2.5151*

*Social Security Contributions and Benefits Act 1992 (c. 4)*

**4.** In section 95(5)(c) of the Social Security Contributions and Benefits Act 1992 (relevant employments), for “or Chapter II of Part I of the Social Security Act 1998” there is substituted “, Chapter II of Part I of the Social Security Act 1998 or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

**5.** In section 116(2) of the Social Security Contributions and Benefits Act 1992 (Her Majesty’s forces), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

**6.** In section 117(1) of the Social Security Contributions and Benefits Act 1992 (mariners, airmen, etc), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

**7.** In section 119 of the Social Security Contributions and Benefits Act 1992 (persons outside Great Britain), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

**8.** In section 120(1) of the Social Security Contributions and Benefits Act 1992 (continental shelf operations), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

**9.** In paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (power to combine collection of contributions with tax), for sub-paragraph (4) there is substituted–

“(4) Where–

- (a) a decision relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and
- (b) the decision will affect a person’s liability for, or the amount of, any interest due in respect of those contributions,

regulations under sub-paragraph (1) above shall not require any such interest to be paid until the decision has been made.”

**10.** In paragraph 7 of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (special penalties in the case of certain returns), for sub-paragraph (12) there is substituted–

“(12) A penalty under section 98A of that Act as it applies by virtue of this paragraph shall not be imposed where–

- (a) a decision relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999, and has not yet been made; and

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- (b) the decision will affect a person's liability for the penalty, or the amount of it."

**11.** In paragraph 8 of Schedule 2 to the Social Security Contributions and Benefits Act 1992 (application of Part V of Taxes Management Act 1970 in relation to Class 4 contributions), for the words from "but nothing" to "arising-" there is substituted "but nothing in this Schedule affects the extent to which the Income Tax Acts apply with respect to any decision falling to be made-".

*Social Security Administration Act 1992 (c. 5)*

**12.** In section 117 of the Social Security Administration Act 1992 (issues arising in proceedings), as substituted by paragraph 84 of Schedule 7 to the Social Security Act 1998, in subsection (1)(c), after "Secretary of State" there is inserted " , the Inland Revenue".

**13.** After section 117 of the Social Security Administration Act 1992 there is inserted-

*"Issues arising in proceedings: contributions, etc.*

**117A.**—(1) This section applies to proceedings before a court-

- (a) for an offence under this Act or the Jobseekers Act 1995; or
- (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable in accordance with section 15 of the Contributions and Benefits Act); or
- (c) for the recovery of any sums due to the Inland Revenue or the National Insurance Fund.

(2) A decision of an officer of the Inland Revenue which-

- (a) falls within section 8(1) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and
- (b) relates to or affects an issue arising in the proceedings,

shall be conclusive for the purposes of the proceedings.

(3) If-

- (a) any such decision is necessary for the determination of the proceedings, and
- (b) the decision of an officer of the Inland Revenue has not been obtained under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999,

the decision shall be referred to such an officer to be made in accordance (subject to any necessary modifications) with Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(4) Subsection (2) above does not apply where, in relation to the decision-

- (a) an appeal has been brought but not determined;
- (b) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
- (c) an application for variation of the decision has been made under regulations made under section 10 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings."

**14.**—(1) Section 166 of the Social Security Administration Act 1992 (financial review and report) is amended as follows.

**SOCIAL SECURITY CONTRIBUTIONS (TRANSFER OF FUNCTIONS, ETC.) ACT 1999 (c. 2)**

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(2) In subsection (1)(d), for “and Chapter II of Part I of the Social Security Act 1998” there is substituted “, Chapter II of Part I of the Social Security Act 1998 and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

(3) In subsection (2)(c), for “and Chapter II of Part I of the Social Security Act 1998” there is substituted “, Chapter II of Part I of the Social Security Act 1998 and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

**15.—(1)** Section 179 of the Social Security Administration Act 1992 (reciprocal agreements with countries outside the United Kingdom) is amended as follows.

(2) In subsection (3)(a), before the words “and the Contributions” there is inserted “, Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.

(3) In subsection (4), before paragraph (b) there is inserted—

“(ac) to Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and”.

**16.** After section 180 of the Social Security Administration Act 1992 there is inserted—

“Payment of travelling expenses by the Commissioners of Inland Revenue.

**180A.** The Inland Revenue may pay such travelling expenses as they may determine—

- (a) to persons required by them to attend any interview in connection with the operation of the Contributions and Benefits Act, this Act, or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999;
- (b) to persons attending local offices in connection with the operation of the Contributions and Benefits Act, this Act, or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.”

*Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

**17.** . . . . . outside scope of this work, See Annex 1, page 2.5151

*Pension Schemes Act 1993 (c. 48)*

**18.—(1)** Section 167 of the Pension Schemes Act 1993 (application of general provisions relating to administration of social security) is amended as follows.

(2) In subsection (2), at the end there is inserted—

“section 180A (payment of travelling expenses by Inland Revenue).”

(3) Subsection (3) is omitted.

**19.—(1)** Section 171 of the Pension Schemes Act 1993 (questions arising in proceedings) is amended as follows.

(2) In subsection (1), for the words from “any such question” to “Secretary of State” there is substituted “any relevant decision as defined by section 170(3) is made by the Inland Revenue, the decision”.

(3) For subsections (2) and (3) there is substituted—

“(2) If—

- (a) any such decision is necessary for the determination of the proceedings, and
- (b) the decision of the Inland Revenue has not been

**SOCIAL SECURITY CONTRIBUTIONS (TRANSFER OF FUNCTIONS, ETC.) ACT 1999 (c. 2)**

**Sch. 7**

obtained or an application with respect to the decision has been made under section 9 or 10 of the Social Security Act 1998,

the decision shall be referred to the Inland Revenue to be made in accordance (subject to any necessary modifications) with Chapter II of Part I of that Act.

(3) Subsection (1) does not apply where, in relation to the decision—

- (a) an appeal has been brought but not determined,
- (b) an application for leave to appeal has been made but not determined,
- (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired, or
- (d) an application has been made under section 9 or 10 of that Act.

(4) In a case falling within subsection (3) the court shall adjourn the proceedings until such time as the final decision is known and that decision shall be conclusive for the purposes of the proceedings.”

**20.** After section 171 of the Pension Schemes Act 1993 there is inserted—

“Reports by Inland Revenue.

171A.—(1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 170(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998.

(2) Any report under this section—

- (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament, or
- (b) may be annexed to any report of the Secretary of State under section 81 of the Social Security Act 1998.

(3) A copy of every report under this section shall be laid before each House of Parliament, unless the report is included in, or annexed to, a report of which a copy is so laid.”

*Employment Rights Act 1996 (c. 18)*

**21.** ..... *outside scope of this work, See Annex 1, page 2.5151*

*Social Security Act 1998 (c. 14)*

**22.—**(1) Section 8 of the Social Security Act 1998 (decisions by Secretary of State) is amended as follows.

(2) In subsection (1)—

- (a) at the end of paragraph (b) there is inserted “and”, and
- (b) paragraph (d) and the word “and” immediately preceding it are omitted.

(3) For subsection (5) there is substituted—

# National Insurance Contributions and Statutory Payments Act 2004

2004 Chapter 3

## CONTENTS

### *Payment of Class 1 contribution*

#### SECTION

1. Payment of Class 1 contributions: Great Britain
2. Payment of Class 1 contributions: Northern Ireland
3. PayAgreements and joint elections: Great Britain
4. Agreements and joint elections: Northern Ireland

### *Method of recovery of contrbutions etc*

5. Recovery of contributions, etc: Great Britain
6. Recovery of contributions, etc: Northern Ireland

### *Provision of Information*

7. Class 1, 1A, 1B or 2 contributions: powers to call for documents etc: Great Britain
8. Class 1, 1A, 1B or 2 contributions: powers to call for documents etc: Northern Ireland

### *Statutory sick pay and statutory maternity pay*

9. Compliance regime for statutory sick pay and statutory maternity pay: Great Britain
10. Compliance regime for statutory sick pay and statutory maternity pay: Northern Ireland

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Schedule 1 - Minor and consequential amendments

Schedule 2 - Repeals and revocations

Part 1 - Repeals

Part 2 - Revocations

**NATIONAL INSURANCE CONTRIBUTIONS AND STATUTORY PAYMENTS ACT 2004 (c. 3)**

**Ss. 1-13**

An Act to make provision relating to the payment and administration of national insurance contributions and the provision of information in connection with the payment of statutory sick pay and statutory maternity pay, and for connected purposes.

[13th May 2004]

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

*Payment of Class 1 contributions*

- 1. .... various amends, see Annex 1, page 2.7506
- 2. .... not reproduced, see Annex 1, page 2.7506
- 3. (1) - (3) .... various amends, see Annex 1, page 2.7506

(4) The amendments made by this section have effect in relation to—

- (a) agreements entered into after the date of commencement of this section which are in respect of post-commencement employment income, and
- (b) elections made after that date.

(5) For the purposes of subsection (4), “post-commencement employment income” means income which is relevant employment income within paragraph 3A(2B) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (c. 4) which, after the date of commencement of this section, counts as employment income for a tax year by virtue of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

- 4. .... not reproduced, see Annex 1, page 2.7506

*Method of recovery of contributions etc.*

- 5. .... various amends, see Annex 1, page 2.7506
- 6. .... not reproduced, see Annex 1, page 2.7506

*Provision of information*

- 7. .... various amends, see Annex 1, page 2.7531
- 8. .... various amends, see Annex 1, page 2.7506

*Statutory sick pay and statutory maternity pay*

- 9. .... various amends, see Annex 1, page 2.7531
- 10. .... not reproduced, see Annex 1, page 2.7506

*Miscellaneous and general*

Minor and consequential amendments  
Repeals and revocations

- 11. Schedule 1 (which makes minor and consequential amendments) has effect
- 12. The enactments and instruments mentioned in Schedule 2 are repealed or revoked to the extent specified.

Commencement

- 13.—(1) The preceding provisions of this Act come into force in accordance with provision made by the Treasury by order.

**NATIONAL INSURANCE CONTRIBUTIONS AND STATUTORY PAYMENTS ACT 2004 (c. 3)**

**Ss. 13-15**

(2) The power to make an order under subsection (1) is exercisable by statutory instrument.

(3) An order under this section—

(a) may include incidental, supplementary, consequential or transitional provision or savings;

(b) may make different provision for different purposes.

**14.—**(1) Sections 1, 3, 5, 7 and 9 extend to England and Wales and Scotland only. Extent

(2) Sections 2, 4, 6, 8 and 10 extend to Northern Ireland only.

(3) An amendment, repeal or revocation contained in Schedule 1 or 2 has the same extent as the enactment or instrument to which it relates.

(4) Subject to subsections (1) to (3) this Act extends to England and Wales, Scotland and Northern Ireland.

**15.** This Act may be cited as the National Insurance Contributions and Statutory Payments Act 2004. Short title

Sch. 1

**SCHEDULES**

**SCHEDULE 1**

Section 11

MINOR AND CONSEQUENTIAL AMENDMENTS

1. .... *various amends see Annex 1, page 2.7531*
2. .... *not reproduced, see Annex 1, page 2.7531*
3. .... *various amends, see Annex 1, page 2.7531*
4. .... *not reproduced, see Annex 1, page 2.7531*
5. .... *various amends see Annex 1, page 2.7531*

SCHEDULE 2

Section 12

REPEALS AND REVOCATIONS

PART 1

REPEALS

Short title and chapter

Extent of repeal

.....not reproduced, see Annex 1, page 2.7531

Social Security Contributions and Benefits Act 1992 (c. 4)

In Schedule 1- (a) in paragraph 3(5), the words from "or" at the end of paragraph (a) to the end,and (b)paragraph 3B(13).

Social Security Administration Act 1992 (c. 5)

Section 111(4). In section 113(1A)(b), the words "statutory sick pay or statutory maternity pay". Section 162(4ZA).

.....not reproduced, see Annex 1, page 2.7531

.....not reproduced, see Annex 1, page 2.7531

**NATIONAL INSURANCE CONTRIBUTIONS AND  
STATUTORY PAYMENTS ACT 2004**

**LIST OF OMISSIONS**

**ANNEX 1**

*The following provisions have been omitted from the text for the reasons stated:-*

- |  |     |     |     |     |  |
|--|-----|-----|-----|-----|--|
| s. 1   | ... | ... | ... | ... | makes consequential amendments to the Social Security Contributions and Benefits Act 1993 (c. 4)   |
| s. 2   | ... | ... | ... | ... | relates to N. Ireland legislation outside the scope of these volumes   |
| s. 3   | ... | ... | ... | ... | makes consequential amendments to the Social Security Contributions and Benefits Act 1993 (c. 4)   |
| s. 4   | ... | ... | ... | ... | relates to N. Ireland legislation outside the scope of these volumes   |
| s. 5   | ... | ... | ... | ... | makes consequential amendments to the Social Security Contributions and Benefits Act 1993 (c. 4)   |
| s. 6   | ... | ... | ... | ... | relates to N. Ireland legislation outside the scope of these volumes   |
| s. 7   | ... | ... | ... | ... | makes consequential amendments to the Social Security Administration Act 1992 (c. 5)   |
| s. 8   | ... | ... | ... | ... | relates to N. Ireland legislation outside the scope of these volumes   |
| s. 9   | ... | ... | ... | ... | makes consequential amendments to the Social Security Administration Act 1992 (c. 5)   |
| s. 10  | ... | ... | ... | ... | relates to N. Ireland legislation outside the scope of these volumes   |
| Sch. 1, paras 1, 2, 3(3) & 5                               | ... | ... | ... | ... | makes consequential amendments to the Social Security Contributions and Benefits Act 1992 (c. 4), the Social Security Administration Act 1992 (c. 5) and the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) |
| Sch 1, para 4, Sch. 2, Part 1 entries 1, 4, 5 & 9 & Part 2 | ... | ... | ... | ... | relates to N. Ireland legislation outside the scope of these volumes   |

**NATIONAL INSURANCE CONTRIBUTIONS AND  
STATUTORY PAYMENTS ACT 2004**

**ANNEX 2  
COMMENCEMENT DATES**

(a) List of Commencement Orders

<i>S.I. no.</i>	<i>Title of Order</i>	<i>Page No. if reproduced in these volumes</i>
2004/ 1943 (c. 88)	The National Insurance Contributions and Statutory Payments Act 2004 (Commencement No. 1) Order 1999	3.801

(b) Dates on which provisions of the National Insurance Contributions and Statutory Payments Act 2004 came into force [Note: In the list below only those sections commenced will be included.]

<i>Section (etc) of National Insurance Contributions and Statutory Payments Act 2004</i>	<i>Date of commencement</i>	<i>Commencing authority</i>
Section 1- 6	1st September 2004	2004/1943
Section 11	1st September 2004	2004/1943
Sch. 1, paras. 1, 2, 3(1) & (3), 4(1) & (3) & (5)	1st September 2004	2004/1943
Section 12 and 5	1st September 2004	2004/1943
Section 13 - 15	13th May 2004	Royal Assent

**NATIONAL INSURANCE CONTRIBUTIONS AND STATUTORY PAYMENTS ACT 2004 (c. 3)**

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**►<sup>1</sup>Amounts◄ to be treated as earnings**

**22.—(1)** For the purposes of section 3 of the Act (earnings)(a), the amounts specified in paragraphs ►<sup>1</sup>(2) to ►<sup>2</sup>(10)◄◄ shall be treated as remuneration derived from an employed earner's employment.

(2) The amount specified in this paragraph is the amount of any payment by a company to or for the benefit of any of its directors if—

- (a) apart from this regulation the payment would, when made, not be earnings for the purposes of the Act; and
- (b) the payment is made on account of or by way of an advance on a sum which would be earnings for those purposes.

►<sup>1</sup>(3) The amount specified in this paragraph is the amount equal to the cash equivalent in respect of car fuel which is treated as earnings from the employment of the earner for income tax purposes by virtue of section 149 of ITEPA 2003.

(4) The amount specified in this paragraph is the amount which is treated as earnings from the employment of the employed earner by virtue of section 222(2) of ITEPA 2003(b).

(5) The amount specified in this paragraph is the amount which counts as employment income of the employed earner under Chapter 2 of Part 7 of ITEPA 2003 computed in accordance with section 428 of ITEPA 2003(c) in respect of conditional shares or interests in conditional shares acquired before 16th April 2003.

References in this paragraph and paragraph (6) to ITEPA 2003 are to that Act as originally enacted.

(6) The amount specified in this paragraph is the amount which counts as employment income of the employed earner by virtue of Chapter 4 of Part 7 of ITEPA 2003 (shares: post-acquisition charges) in respect of shares or interests in shares acquired before 16th April 2003.

(7) The amounts specified in this paragraph are those—

- (a) which count as employment income of the employed earner in relation to employment-related securities (within the meaning given by section 421B(8) of ITEPA 2003(d); and
- (b) to which section 698 of ITEPA 2003 (PAYE: special charges on employment-related securities)(e) applies.

Reference in this paragraph ►<sup>2</sup>and paragraphs (9) and (10)◄ to ITEPA 2003 are to that Act as amended.

(8) The amount specified in this paragraph is the amount—

- (a) which counts as employment income of the employed earner by virtue of sections 500 to 508 of ITEPA 2003; and
- (b) in respect of which income tax is recoverable in accordance with PAYE regulations.◄

►<sup>2</sup>(9) The amount specified in this paragraph is any amount—

- (a) which, by reason of the operation of Schedule 2 to the Finance (No. 2) Act 2005, counts as employment income of the employed earner under any of Chapters 2 to 4 of Part 7 of ITEPA 2003; and
- (b) where the relevant date for that income determined under section 698(6) of ITEPA 2003 (whether or not the PAYE Regulations apply to that income) is on or after 2nd December 004 and before 20th July 2005.

(a) Section 3 was amended by sections 48 and 49 of the Social Security Act 1998 (c. 14) and paragraph 3 of Schedule 3 to the Transfer Act.

(b) Section 222 was amended by section 144 of the Finance Act 2003.

(c) Section 428 is substituted by paragraph 3(1) of Schedule 22, subject to the saving contained in paragraph 3(2) of that Schedule in relation to securities and interests in securities acquired before 16th April 2003.

(d) Section 421B was inserted by paragraph 2(1) of Schedule 22.

(e) Section 698 is substituted by paragraph 12(1) of Schedule 22, subject to the saving in sub-paragraph (2) of that paragraph.

<sup>1</sup>Words in reg. 22 heading & para. (1) substituted & paras. (3) to (5) substituted for (3) to (8) by reg. 5(2)-(4) of S.I. 2003/2085 as from 1.9.03.

<sup>2</sup>Words inserted in regs. 22(1) & (7) and paras. (9) & (10) added by regs. 2(1)-(4) of S.I. 2007/1057 as from 6.4.07.

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- (10) The amount specified in this paragraph is any amount—
- (a) which by virtue of the operation of section 92 of the Finance Act 2006 counts as employment income of the employed earner under any of Chapters 2 to 4 of Part 7 of ITEPA 2003; and
  - (b) where the relevant date for that income determined under section 698(6) of ITEPA 2003 (whether or not the PAYE Regulations apply to that income) is on or after 2nd December 2004 and before 19th July 2006.◀

<sup>1</sup>Reg. 22A inserted by reg. 5 of S.I. 2002/307 as from 6.4.02.

▶<sup>1</sup>**Amounts to be treated as earnings in connection with the use of qualifying vehicles other than cycles**

**22A.**—(1) To the extent that it would not otherwise be earnings, the amount specified in paragraph (2) shall be so treated.

- (2) The amount is that produced by the formula—

$$\text{RME} - \text{QA}$$

Here—

**RME** is the aggregate of relevant motoring expenditure within the meaning of paragraph (3) in the earnings period; and

**QA** is the qualifying amount calculated in accordance with paragraph (4).

- (3) A payment is relevant motoring expenditure if—

- (a) it is a mileage allowance payment within the meaning of ▶<sup>2</sup>section 229(2) of ITEPA 2003;◀
- (b) it would be such a payment but for the fact that it is paid to another for the benefit of the employee; or
- (c) it is any other form of payment, except a payment in kind, made by or on behalf of the employer, and made to, or for the benefit of, the employee in respect of the use by the employee of a qualifying vehicle.

<sup>2</sup>Words substituted in para. (3) and (4) of reg. 22A by reg. 4(a) & (b) of S.I. 2004/770 as from 6.4.04.

▶<sup>2</sup>Here “qualifying vehicle” means a vehicle to which section 235 of ITEPA 2003 applies◀ but does not include a cycle within the meaning of section 192(1) of the Road Traffic Act 1988(a).

- (4) The qualifying amount is the product of the formula—

$$\text{M} \times \text{R}$$

Here—

**M** is the sum of—

- (a) the number of miles of business travel undertaken, at or before the time when the payment is made—
  - (i) in respect of which the payment is made, and
  - (ii) in respect of which no other payment has been made; and
- (b) the number of miles of business travel undertaken—
  - (i) since the last payment of relevant motoring expenditure was made, or, if there has been no such payment, since the employment began, and
  - (ii) for which no payment has been, or is to be, made; and

**R** is the rate applicable to the vehicle in question, at the time when the payment is made, in accordance with ▶<sup>2</sup>section 230(2) of ITEPA 2003◀ and, if more than one rate is applicable to the class of vehicle in question, is the higher or highest of those rates.◀

**Manner of making sickness payments treated as remuneration**

**23.** Where by virtue of section 4(1) of the Act (payments treated as remuneration and earnings) a sickness payment is treated as remuneration derived from an employed earner’s employment, that payment shall be made through the person who is the secondary contributor in relation to the employment concerned except where—

- (a) 1988 c. 52. There are amendments to section 192 which are not relevant for the purposes of this instrument.

- (a) the payment is payable by another person;
- (b) that person has agreed with the secondary contributor to make the payment; and
- (c) arrangements have been made between them for the person who has agreed to make the payment to furnish the secondary contributor with the information specified in paragraph 3(5)(a) of Schedule 4 (intermediate employers).

#### **Calculation of earnings for the purposes of earnings-related contributions**

**24.** For the purpose of determining the amount of earnings-related contributions, the amount of a person's earnings from employed earner's employment shall be calculated on the basis of his gross earnings from the employment or employments in question.

*This is subject to the provisions of Schedule 2 (calculation of earnings for the purposes of earnings-related contributions in particular cases) and Schedule 3 (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions).*

#### **Payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions**

**25.** Schedule 3 specifies payments which are to be disregarded in the calculation of earnings from employed earner's employment for the purpose of earnings-related contributions.

#### **Certain payments by trustees to be disregarded**

**26.—(1)** For the purposes of earnings-related contributions, there shall be excluded from the calculation of a person's earnings in respect of any employed earner's employment any payment, or any part of a payment—

- (a) which is made by trustees before 6th April 1990;
- (b) the amount of which is or may be dependent upon the exercise by the trustees of a discretion or the performance by them of a duty arising under the trust;
- (c) not being a sickness payment which by virtue of section 4(1) of the Act (payments treated as remuneration and earnings) is treated as remuneration derived from an employed earner's employment,

and in respect of which either paragraph (2) or (3) is satisfied.

(2) This paragraph is satisfied if the trust, under which the payment is made, was created before 6th April 1985.

(3) This paragraph is satisfied if—

- (a) the trust, under which the payment is made, was created on or after 6th April 1985;
- (b) that trust took effect immediately on the termination of a trust created before 6th April 1985;
- (c) the person to whom the payment is made either—
  - (i) was a beneficiary under the earlier trust, or
  - (ii) would have been such a beneficiary if, while the earlier trust was subsisting, he had held the employment in respect of which the payment is made; and
- (d) there were or are payments under the earlier trust which in the case of payments made on or after 6th October 1987, are payments made in circumstances to which sub-paragraphs (a), (b) and (c) apply.

#### **Payments to directors which are to be disregarded**

**27.—(1)** For the purposes of earnings-related contributions, there shall be excluded from the calculation of a person's earnings any payment in so far as it is a payment—

- (a) by a company;
- (b) to or for the benefit of a director of that company;

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- (c) in respect of any employed earner's employment of that director with that company; and
- (d) in respect of which paragraph (2), (3) or (4) is satisfied.
- (2) This paragraph is satisfied if—
- (a) the director is a partner in a firm carrying on a profession;
- (b) being a director of a company is a normal incident of membership of that profession and of membership of the firm of the director;
- (c) the director is required by the terms of his partnership to account to his firm for the payment; and
- (d) the payment forms an insubstantial part of that firm's gross returns.
- (3) This paragraph is satisfied if—
- (a) the director was appointed to that office by a company having the right to do so by virtue of its shareholding in, or an agreement with, the company making the payment;
- (b) by virtue of an agreement with the company that appointed him, the director is required to account for the payment to that company; and
- (c) the payment forms part of the profits brought into charge to corporation tax or income tax of the company that appointed the director.
- (4) This paragraph is satisfied if—
- (a) the director was appointed to that office by a company other than the company making the payment;
- (b) by virtue of an agreement with the company that appointed him, the director is required to account for the payment to that company;
- (c) the payment forms part of the profits brought into charge to corporation tax of the company that appointed the director; and
- (d) the company that appointed the director is not one over which—
- (i) the director has, or
- (ii) any person connected with the director has, or
- (iii) the director and any persons connected with him together have, control.
- (5) In this regulation—
- (a) "company" has the meaning given by section 832(1) <sup>1</sup> of the Taxes Act (interpretation of the Tax Acts) <sup>1</sup> and Part 2 of Schedule 1 to ITEPA 2003 <sup>1</sup>;
- (b) "the director" means the director to or for the benefit of whom the payment referred to in paragraph (1) is made; and
- (c) in paragraph (4)(d)—
- (i) "control" has the same meaning as in section 840 of the Taxes Act,
- (ii) "any person connected with the director" means any of the following, namely the spouse, <sup>2</sup> civil partner, <sup>2</sup> parent, child, son-in-law or daughter-in-law of the director.

<sup>1</sup>Words omitted and inserted in reg. 27(5)(a) by reg. 5(a) & (b) of S.I. 2004/770 as from 6.4.04.

<sup>2</sup>Words inserted in reg. 27(5)(c)(ii) by reg. 4 of S.I. 2005/3130 as from 5.12.05.

### **Liability for Class 1 contributions in respect of earnings normally paid after pensionable age**

**28.** Where in the year in which an earner attains pensionable age a payment of earnings is made to or for his benefit before the date he reaches pensionable age, and those earnings would normally fall to be paid in a year following that year, he shall be excepted from liability for primary Class 1 contributions payable in respect of those earnings.

### **Liability for Class 1 contributions of persons over pensionable age**

#### **29.** If—

- (a) earnings are paid to or for the benefit of an earner after he attains pensionable age; and
- (b) those earnings would normally fall to be paid before the date on which he reaches pensionable age,

section 6(3) of the Act (liability for Class 1 contributions)(a) shall not operate to except him from liability for primary Class 1 contributions in respect of those earnings.

►<sup>1</sup>**Abnormal pay practices**

**30.—**(1) If an officer of the Board is satisfied that—

- (a) a secondary contributor has followed or is following a practice in the payment of earnings which is abnormal for the employment in question (“an abnormal pay practice”); and
- (b) by reason of that practice the liability for earnings-related contributions is or has been avoided or reduced,

<sup>1</sup>Reg. 30 substituted by reg. 5 of S.I. 2002/2366 as from 8.10.02.

paragraph (2) applies.

(2) If this paragraph applies the officer may, and if requested to do so by the earner or the secondary contributor shall, decide any question relating to a person’s earnings-related contributions as if the secondary contributor had not followed an abnormal pay practice, but had followed a practice normal for the employment in question.

(3) A decision under this regulation shall not apply to contributions based on payments made more than one year before the beginning of the year in which that decision is given.◀

►<sup>2</sup>**Practices avoiding or reducing liability for contributions**

**31.—**(1) If an officer of the Board is satisfied that—

- (a) a practice exists as to the making of irregular or unequal payments of earnings; and
- (b) by reason of the practice the liability for earnings-related contributions is avoided or reduced,

<sup>2</sup>Reg. 31 substituted by reg. 6 of S.I. 2002/2366 as from 8.10.02.

he may, and if requested to do so by either the earner or the secondary contributor shall, decide whether to issue a direction to secure that the same contributions are payable as would be payable if the practice were not followed.

(2) A direction under paragraph (1)—

- (a) shall specify the date from which it is to have effect, which shall not be earlier than that on which it is given;
- (b) shall have effect until—
  - (i) the direction is superseded by the giving of a further direction, or
  - (ii) an officer of the Board is satisfied that the practice has ceased, or has ceased to have the effect mentioned in paragraph (1)(b); and
- (c) shall be given to the earner and the secondary contributor concerned.

This is subject to the qualification in paragraph (3).

(3) A direction under paragraph (1) need not be given to an earner if the officer of the Board is for any reason unable to ascertain his identity or whereabouts.

(4) This regulation does not limit the operation of regulation 30.◀

## PART 3

### CLASS 1A CONTRIBUTIONS

**Interpretation for the purposes of this Part**

►<sup>3</sup>◀

<sup>3</sup>Regs. 32 to 35 omitted by reg. 6 of S.I. 2004/1770 as from 6.4.04.

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(a) Section 6 was substituted by paragraph 2 of Part I of Schedule 9 to the Welfare Reform Act.



shall apply with the necessary modifications for the purposes of ascertaining, certifying and recovering the earnings-related contributions payable by the employee.

(6) If the employee ceases to receive <sup>1</sup>general earnings falling within sub-paragraph (2), he shall immediately render to the <sup>1</sup>Inland Revenue in such form as they may prescribe, a return showing such particulars as they may require for the identification of the employee, the year to which the return relates, the appropriate category letter, the last date on which he received any such <sup>1</sup>earnings, the total of those <sup>1</sup>earnings and the earnings-related contributions payable from the beginning of the year to that date.

<sup>1</sup>Words substituted in para. 31 by reg. 33 of S.I. 2004/770 as from 6.4.04.

(7) <sup>1</sup>Before 20th May following the end of the year, the employee shall (unless sub-paragraph (6) has applied) render to the <sup>1</sup>Inland Revenue in such form as they may prescribe, a return showing such particulars as they may require for the identification of the employee, the year to which the return relates, the total of the <sup>1</sup>general earnings and earnings-related contributions payable during the year, together with the appropriate category letter, and the provisions of paragraph 22(5) regarding the certification and recovery of earnings-related contributions remaining unpaid by an employer for any year shall apply in the case of any earnings-related contributions remaining unpaid by the employee.

(8) The employee shall retain deductions working sheets issued under sub-paragraph (1) for not less than three years after the end of the year to which they relate.

Section 98A of the Taxes Management Act 1970 (special penalties for certain returns) as modified by the provisions of paragraph 7 to Schedule 1 to the Act, shall apply in relation to the requirement to make a return contained in sub-paragraphs (6) and (7).

## SCHEDULE 5

Regulation 69

### ELECTIONS ABOUT <sup>2</sup>SECURITIES OPTIONS, RESTRICTED SECURITIES AND CONVERTIBLE SECURITIES

<sup>2</sup>Words in heading to Sch. 5 & sub-paras. (1)(a) & (b) of para. 1 substituted by reg. 8 of S.I. 2004/2096 as from 1.9.04.

**1.**—(1) An election for the purposes of paragraph 3B(1) of Schedule 1 to the Act shall contain—

- <sup>2</sup>(a) details of the securities options, restricted securities and convertible securities to which it relates, or of the period to which it relates, within which these are intended to be awarded or acquired;
- (b) a statement that the election relates to relevant employment income arising from the securities or securities options referred to in sub-paragraph (1)(a) on which the employed earner is liable to pay secondary Class 1 contributions under—
  - (i) in the case of securities options, section 476 of ITEPA 2003(a) and section 4(4)(a) of the Act(b);
  - (ii) in the case of restricted securities, section 426 of ITEPA 2003(c) and regulation 22(7)(d);
  - (iii) in the case of convertible securities, section 438 of ITEPA 2003(e) and regulation 22(7), and
 an explanation of the effect of the relevant provision;
- (c) the amount or proportion (as the case may be) of the liability for secondary Class 1 contributions to be transferred;
- (d) a statement that its purpose is to transfer the liability for the secondary Class 1 contributions referred to in paragraph (c) from the secondary contributor to the employed earner;

(a) Section 476 of ITEPA 2003 was substituted by paragraph 10(1) of Schedule 22 to the Finance Act 2003.

(b) Section 4(4) of the Act was substituted by section 50(1) of the Social Security Act 1998. Subsection (4)(a) was substituted by paragraph 172(2) of Part 2 of Schedule 6 to ITEPA 2003 and amended by paragraph 48 of Schedule 22 to the Finance Act 2003.

(c) Section 426 of ITEPA 2003 was substituted by paragraph 3(1) of Schedule 22 to the Finance Act 2003.

(d) Regulation 22(7) was substituted by regulation 5 of S.I. 2003/3085.

(e) Section 438 of ITEPA 2003 was substituted by paragraph 4(1) of Schedule 22 to the Finance Act 2003.

**Schs. 5-6**

<sup>1</sup>Para. 1(1)(dd) added to Sch. 5 by reg. 2(2) of S.I. 2007/1175 as from 6.4.07.

- ▶<sup>1</sup>(dd) a statement that it does not apply in relation to any liability, or any part of any liability, arising as a result of regulations being given retrospective effect by virtue of section 4B(2) of either the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992;◀
- (e) a statement as to the method by which the secondary contributor will secure that the liability for amounts of contributions, transferred under the election, is met;
- (f) a statement as to the circumstances in which it shall cease to have effect;
- (g) a declaration by the employed earner that he agrees to be bound by its terms; and
- (h) evidence sufficient to show that the secondary contributor agrees to be bound by its terms.

(2) The declaration referred to in sub-paragraph (1)(g) must either be signed by the employed earner or, if it is made by electronic communications, made by him in such electronic form and by such means of electronic communications as may be authorised by the Board.

**2.**—(1) An election to which this Schedule applies shall be made either in writing or in such electronic form and by such means of electronic communications as may be authorised by the Board.

(2) An election to which this Schedule applies may be contained in two documents, one made by the employed earner and the other by the secondary contributor, in which case—

- (a) the document made by the employed earner shall contain the matters listed in paragraph 1(1)(a) to (g); and
- (b) the document made by the secondary contributor shall contain the matters listed in paragraph 1(1)(a) to (f) and (h).

**3.**—(1) Where an election to which this Schedule applies has been made, the secondary contributor shall notify the employed earner to whom any of his liabilities are transferred by the election of—

- (a) any transferred liability that arises;
- (b) the amount of any transferred liability that arises; and
- (c) the contents of any notice of withdrawal by the Board of any approval that relates to the election.

(2) The secondary contributor shall notify the employed earner of the matters set out in sub-paragraph (1)(a) and (b) as soon as reasonably practicable.

(3) The secondary contributor shall notify the employed earner of the matters set out in sub-paragraph (1)(c) within 14 days of receipt of the notice of withdrawal in question.

**SCHEDULE 6**

Regulation 140

**PART 1****PRESCRIBED ESTABLISHMENTS AND ORGANISATIONS FOR THE PURPOSES OF SECTION 116(3) OF THE ACT**

1. Any of the regular naval, military or air forces of the Crown.
2. Royal Fleet Reserve.
3. Royal Naval Reserve.
4. Royal Marines Reserve.
5. Army Reserve.
6. Territorial Army.
7. Royal Air Force Reserve.
8. Royal Auxiliary Air Force.
9. The Royal Irish Regiment, to the extent that its members are not members of any force falling within paragraph 1.

**2007 No. 118****SOCIAL SECURITY****The Social Security (Contributions) (Amendment)  
Regulations 2007**

<i>Made</i> - - - -	<i>23rd January 2007</i>
<i>Laid before Parliament</i>	<i>24th January 2007</i>
<i>Coming into force</i> -	<i>6th April 2007</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 5, 122(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 5, 121(1) and 171(3), (4) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b):

**Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment) Regulations 2007.

(2) These Regulations shall come into force on 6th April 2007.

[Regulation 2 amends regulations 10 & 11 of S.I. 2001/1004]

*Kevin Brennan*  
*Claire Ward*

23rd January 2007

Two of the Lords Commissioners of Her Majesty's Treasury

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(a) 1992 c. 4; section 5 was substituted by paragraph 1 of Part 1 of Schedule 9 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 122(1) is cited because of the meaning given to "prescribe". Section 175(4) was substituted by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).

(b) 1992 c. 7; section 5 was substituted by paragraph 1 of Part 1 of Schedule 10 to the Welfare Reform and Pensions Act 1999. Section 121(1) is cited because of the meaning given to "prescribe". Section 171(10) was substituted by paragraph 28(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the principal Regulations”).

Regulation 1 provides for the citation and commencement of the Regulations.

Regulation 2 introduces the changes made to the principal Regulations.

Regulation 3 amends regulation 10 of the principal Regulations to specify the levels of the lower and upper earnings limits for primary Class 1 contributions and the primary and secondary thresholds for primary and secondary Class 1 contributions for the tax year beginning 6th April 2007.

Regulation 4 amends regulation 11(3) of the principal Regulations to provide for the equivalents of the primary and secondary thresholds where the earnings period is a month or a year.

A regulatory impact assessment has not been produced for this instrument as it does not impose any new costs on the private or voluntary sectors.

## 2007 No. 1057

### SOCIAL SECURITY

#### The Social Security (Contributions) (Amendment No. 2) Regulations 2007

*Made* - - - - - 29th March 2007  
*Coming into force* - 6th April 2007

The Treasury make these Regulations in exercise of the powers conferred by sections 4(6), 4B(1)(b) and (2) to (6) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 4(6), 4B(1)(b) and (2) to (6) and 171(3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), and now vested in them(c).

A draft of this instrument has been laid before Parliament in accordance with section 176(1)(a) of the former Act and section 172(11A) of the latter Act and approved by a resolution of each House of Parliament.

It appears to the Treasury appropriate to make these Regulations for the purpose of reflecting the provision made by Schedule 2 to the Finance (No. 2) Act 2005(d) and section 92 of the Finance Act 2006(e); and expedient, in consequence of those provisions, for these Regulations to have retrospective effect.

Accordingly, the Treasury make the following Regulations with the concurrence of the Secretary of State for Work and Pensions and the Department for Social Development:

#### **Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 2) Regulations 2007 and shall come into force on 6th April 2007.

(2) These Regulations, other than regulation 2(3)(b), have effect in relation to times on and after 2nd December 2004.

(3) Regulation 2(3)(b) has effect in relation to times on and after 20th July 2005.

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(a) 1992 c. 4. Section 4(6) was last substituted by section 74(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19: “the 2000 Act”) and amended by paragraph 172(4) of Part 2 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1: “ITEPA 2003”). Section 4B was inserted by section 1(1) of the National Insurance Contributions Act 2006 (c. 10: “the 2006 Act”).

(b) 1992 c. 7. Section 4(6) was last substituted by section 78(3) of the 2000 Act and amended by paragraph 193(4) of Part 2 of Schedule 6 to ITEPA 2003. Section 4B was inserted by section 2(1) of the 2006 Act.

(c) See paragraph 4 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and paragraph 5 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

(d) 2005 c. 22.

(e) 2006 c. 25.

[Regulation 2 amends regulation 22 of S.I.2001/1004]

*Claire Ward*  
*Dave Watts*

29th March 2007 Two of the Lords Commissioners of Her Majesty's Treasury

The Secretary of State concurs.

Signed by authority of the Secretary of State for Works and Pensions

*James Purnell*  
Minister of State

29th March 2007 Department for Work and Pensions

The Department for Social Development concurs.

Sealed with the Official Seal of the Department for Social Development on the 28th day of March 2007.

L.S.

*John O'Neill*

A Senior Officer of the Department for Social Development

#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend regulation 22 of the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004: "the 2001 Regulations") to secure parity of treatment for income tax and national insurance contributions purposes in respect of sums of earnings which are retrospectively taxed by virtue of Schedule 2 to the Finance (No. 2) Act 2005 (c. 22) and section 92 of the Finance Act 2006 (c. 25).

Regulation 1 provides for the citation, commencement and effect of the Regulations.

Regulation 2 effects the amendments to regulation 22 of the 2001 Regulations.

A regulatory impact assessment in respect of the measures contained in the Bill which became the National Insurance Contributions Act 2006, in consequence of the enactment of which these Regulations are made, was published by HM Revenue and Customs at [www.hmrc.gov.uk/ria/ria-nicbill05.pdf](http://www.hmrc.gov.uk/ria/ria-nicbill05.pdf). The assessment was that the impact of the Act would be minimal.

Authority for the retrospective provision made by these Regulations is conferred by section 4B(1)(b) of each of the Social Security Contributions and Benefits Act 1992 (c. 4) and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7). Those sections were inserted by sections 1 and 2 respectively of the National Insurance Contributions Act 2006 (c. 10).

## 2007 No. 1175

### SOCIAL SECURITY

#### TERMS AND CONDITIONS OF EMPLOYMENT

#### The Social Security (Contributions) (Amendment No. 3) Regulations 2007

<i>Made</i> - - - -	<i>4th April 2007</i>
<i>Laid before Parliament</i>	<i>5th April 2007</i>
<i>Coming into force</i> -	<i>6th April 2007</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 175(4) of, and paragraph 3B(11) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(a), and by section 171(4) of, and paragraph 3B(11) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), and in each case now exercisable by them(c), :

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations 2007 and shall come into force on 6th April 2006.

(2) In these Regulations “the principal Regulations” means the Social Security (Contributions) Regulations 2001(d).

[Regulation 2 amends S.I. 2001/1004.]

*Mike Eland*  
*Dave Hartnett*

4th April 2007 Two of the Commissioners for Her Majesty's Revenue and Customs

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- (a) 1992 c. 4. Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Paragraph 3B was inserted by section 77(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19: “the 2000 Act”) and amended by section 3(3) of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3: “the 2004 Act”) and section 5 of the National Insurance Contributions Act 2006 (c. 10).
- (b) 1992 c. 7. Section 171(4) was extended by virtue of the amendment contained in paragraph 28(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671). Paragraph 3B was inserted by section 80(2) of the 2000 Act, and amended by section 4(3) of the 2004 Act and section 6 of the 2006 Act.
- (c) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that, in so far as it is appropriate in consequence of section 5, a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (d) S.I. 2001/1004: the relevant amendments are those made by regulation 8(b) of S.I. 2004/2096.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004: “the 2001 Regulations”) in consequence of the enactment of the National Insurance Contributions Act 2006 (c. 10: “the 2006 Act”). That Act provides, for the first time, for the making of regulations with retrospective effect in relation to national insurance contributions. Such regulations may be made by virtue of section 4B(2) of each of the Social Security Contributions and Benefits Act 1992 (c. 4) and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Acts”). These sections were inserted by sections 1 and 2 respectively of the 2006 Act.

Schedule 5 to the 2001 Regulations prescribes the form and manner of making an election in relation to national insurance contributions arising on securities options, restricted securities and convertible securities. Paragraph 3B(7B) of Schedule 1 to each of the 1992 Acts (inserted by sections 5(3) and 6(3) of the 2006 Act) preclude an election under those paragraphs having effect in relation to contributions, or parts of contributions, liability to which arises as a result of regulations being given retrospective effect. Schedule 5 to the 2001 Regulations is amended so that any new elections to transfer liability for secondary Class 1 contributions must contain a statement to that effect.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 makes the amendment to Schedule 5 to the 2001 Regulations, and contains a saving for the continuing effect of elections made before the coming into force of these Regulations.

These Regulations do not impose new costs on business.

## 2001 No. 769

### SOCIAL SECURITY

#### The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001

<i>Made</i> - - - -	<i>7th March 2001</i>
<i>Laid before Parliament</i>	<i>13th March 2001</i>
<i>Coming into force</i>	<i>6th April 2001</i>

The Secretary of State for Social Security, with the concurrence of the Inland Revenue in so far as required, in exercise of powers conferred by sections 13(3), 22(5), 122(1) and 175(1) to (4) of, and paragraphs 8(1)(d) and (1A) and 10 of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(a) and sections 182C and 189(1) and (3) to (6) of the Social Security Administration Act 1992(b) and of all other powers enabling him in that behalf and for the purpose only of consolidating other regulations hereby revoked(c), hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 and shall come into force on 6th April 2001.

(2) In these Regulations, including this regulation—

“the Act” means the Social Security Contributions and Benefits Act 1992;

“the Contributions Regulations” means the Social Security (Contributions) Regulations 1979(d);

“contribution week” means a period of seven days beginning with midnight between Saturday and Sunday;

- 
- (a) 1992 c. 4. See paragraph 8(1A) of Schedule 1 in respect of Inland Revenue concurrence. Section 13(3) was amended by paragraph 14(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the 1999 Act”). Section 22(5) was amended by paragraph 22 of Schedule 2 to the Jobseeker’s Act 1995 (c. 18). Section 122(1) is cited because of the meaning assigned to the word “prescribe”. Section 175 was amended by paragraph 29 of Schedule 3 to the 1999 Act. Paragraph 8(1A) was inserted by paragraph 39(3) of Schedule 3 to the 1999 Act and amended by paragraph 3 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30).
- (b) 1992 c. 5. Section 182C was inserted by paragraph 9 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c. 47) and amended by paragraph 31 of Schedule 1 to the 1999 Act. Section 189(1), (4) to (6) was amended by paragraph 109 of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c. 14) and subsection (1) was further amended by paragraph 57(2) of Schedule 3 to the 1999 Act.
- (c) See paragraph 10 of Schedule 7 to the Social Security Administration Act 1992 which exempts regulations made for the purpose only of consolidating other regulations revoked by them from the requirement for prior submission to the Social Security Advisory Committee.
- (d) S.I. 1979/591. The relevant amending instruments are S.I. 1984/77, 1987/413 and 2111, 1989/572, 1992/97 and 669, 1993/260, 1995/829, 1996/2367, 1999/567, 2000/2207, 2343 and 2744 and 2001/45.

**SOCIAL SECURITY (CREDITING AND TREATMENT OF CONTRIBUTIONS, AND NATIONAL INSURANCE NUMBERS) REGULATIONS 2001**

“contribution-based jobseeker’s allowance” and “income-based jobseeker’s allowance” have the same meaning as in the Jobseeker’s Act 1995(a);

“contributory benefit” includes a contribution-based jobseeker’s allowance but not an income-based jobseeker’s allowance;

“due date” ►<sup>1</sup>subject to regulation 4(11)◄ means, in relation to any contribution which a person is—

- (a) liable to pay, the date by which payment falls to be made in accordance with Part IV of the Contributions Regulations;
- (b) entitled, but not liable, to pay, the date 42 days after the end of the year in respect of which it is paid;

“earnings factor” has the meaning assigned to it in section 21(5)(c) of the Act;

“relevant benefit year” has the meaning assigned to it in—

- (a) section 2(4)(b) of the Jobseeker’s Act 1995, in relation to a contribution-based jobseeker’s allowance;
- (b) paragraph 2(6)(b) of Schedule 3 to the Act (b) (contribution conditions for entitlement to short-term incapacity benefit), in relation to short-term incapacity benefit;

“relevant time”, in relation to short-term incapacity benefit, has the meaning assigned to it in paragraph 2(6)(a) of Schedule 3 to the Act;

“year” means tax year.

**Appropriation of Class 3 contributions**

2. Any person paying Class 3 contributions in one year may appropriate such contributions to the earnings factor of another year if such contributions are payable in respect of that other year or, in the absence of any such appropriation, the Inland Revenue may, with the consent of the contributor, make such appropriation.

**Crediting of Class 3 contributions**

3. Where, for any year, a contributor’s earnings factor derived from—

- (a) earnings upon which primary Class 1 contributions have been paid or treated as paid;
- (b) credited earnings;
- (c) Class 2 or Class 3 contributions paid by or credited to him; or
- (d) any or all of such earnings and contributions,

falls short of a figure which is 52 times that year’s lower earnings limit for Class 1 contributions by an amount which is equal to, or less than, half that year’s lower earnings limit, that contributor shall be credited with a Class 3 contribution for that year.

**Treatment for the purpose of any contributory benefit of late paid contributions**

4.—(1) Subject to the provisions of regulations 5 ►<sup>2</sup>to 6A◄ below and regulation 40 of the Contributions Regulations (voluntary Class 2 contributions not paid within permitted period), for the purpose of entitlement to any contributory benefit, paragraphs (2) to (9) below shall apply to contributions (“relevant contributions”)—

- (a) paid after the due date; or
- (b) treated as paid after the due date under regulation 7(2) below.

(2) Subject to the provisions of paragraph (4) below, any relevant contribution other than one referred to in paragraph (3) below—

<sup>1</sup>Words inserted in defn. of “due date” by reg. 2(2) of S.I. 2007/1154 as from 6.4.07.

<sup>2</sup>Words substituted in reg. 4(1) by reg. 2(a) of S.I. 2004/1361 as from 17.5.04.

(a) 1995 c. 18.

(b) Paragraph 2(6)(b) was amended by paragraph 38(2) of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).

- (a) if paid—
  - (i) after the end of the second year following the year in which liability for that contribution arises,
  - (ii) following the due date for that contribution in the case of a contribution which a person is entitled, but not liable, to pay,

shall be treated as not paid;

- (b) if paid before the end of the said second year, shall, subject to paragraphs (7) and (8) below, be treated as paid on the date on which payment of the contribution is made.

(3) Subject to the provisions of paragraph (4) below, any relevant Class 2 contribution payable in respect of a contribution week after 5th April 1983 or any relevant Class 3 contribution payable in respect of a year after 5th April 1982—

- (a) if paid—
  - (i) after the end of the sixth year following the year in which liability for that contribution arises,
  - (ii) following the due date for that contribution in the case of a contribution which a person is entitled, but not liable, to pay,

shall be treated as not paid;

- (b) if paid before the end of the said sixth year, shall, subject to paragraphs (7) and (8) below, be treated as paid on the date on which payment of the contribution is made.

(4) A Class 3 contribution payable by a person to whom regulation 27(3)(b)(ii) or (iii) of the Contributions Regulations(a) (which specify the conditions to be complied with before a person may pay a Class 3 contribution) applies in respect of a year which includes a period of education, apprenticeship, training, imprisonment or detention in legal custody such as is specified in that regulation—

- (a) if paid after the end of the sixth year specified in that regulation, shall be treated as not paid;
- (b) if paid before the end of the said sixth year shall, subject to the provisions of paragraphs (7) and (8) below, be treated as paid on the date on which payment of the contribution is made.

(5) Notwithstanding the provisions of paragraph (4) above, for the purpose of entitlement to any contributory benefit, where—

- (a) a Class 3 contribution other than one referred to in sub-paragraph (b) below which is payable in respect of a year specified in that sub-paragraph, is paid after—
  - (i) the due date, and
  - (ii) the end of the second year following the year preceding that in which occurred the relevant time or, as the case may be, the relevant event, that contribution shall be treated as not paid;
- (b) in respect of a year after 5th April 1982, a Class 3 contribution which is payable in respect of a year specified in paragraph (4) above, is paid after—
  - (i) the due date, and
  - (ii) the end of the sixth year following the year preceding that in which occurred the relevant time or, as the case may be, the relevant event, that contribution shall be treated as not paid.

(6) For the purposes of paragraph (5) above, “relevant event” means the date on which the person concerned attained pensionable age(b) or, as the case may be, died under that age.

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(a) Sub-para. (b)(iii) was inserted by reg. 9(b) of S.I. 1984/77.

(b) The definition of “pensionable age” in s. 122(1) of the Social Security Contributions and Benefits Act 1992 was substituted by para. 13(a) of Sch. 4 to the Pensions Act 1995 (c. 26).

**SOCIAL SECURITY (CREDITING AND TREATMENT OF CONTRIBUTIONS, AND NATIONAL INSURANCE NUMBERS) REGULATIONS 2001**

(7) Notwithstanding the provisions of paragraphs (2), (3) and (4) above, in determining whether the relevant contribution conditions are satisfied in whole or in part for the purpose of entitlement to any contributory benefit, any relevant contribution which is paid within the time specified in paragraph (2)(b), (3)(b) or, as the case may be, (4)(b) above shall be treated—

- (a) for the purpose of entitlement in respect of any period before the date on which the payment of the contribution is made, as not paid; and
- (b) subject to the provisions of paragraph (8) below, for the purpose of entitlement in respect of any other period, as paid on the date on which the payment of the contribution is made.

(8) For the purpose of determining whether the second contribution condition for entitlement to a contribution-based jobseeker's allowance or short-term incapacity benefit is satisfied in whole or in part, any relevant contribution shall be treated—

- (a) if paid before the beginning of the relevant benefit year, as paid on the due date;
- (b) if paid after the end of the benefit year immediately preceding the relevant benefit year, as not paid in relation to the benefit claimed in respect of any day before the expiry of a period of 42 days (including Sundays) commencing with the date on which the payment of that contribution is made, and, subject to the provisions of paragraphs (2)(a) and (3)(a) above, as paid at the expiry of that period in relation to entitlement to such benefit in respect of any other period.

(9) For the purposes of paragraph (8) above, “second contribution condition” in relation to—

- (a) a contribution-based jobseeker's allowance is a reference to the condition specified in section 2(1)(b) of the Jobseeker's Act 1995(a);
- (b) short-term incapacity benefit is a reference to the condition specified in paragraph 2(3) of Schedule 3 to the Act.

(10) This regulation shall not apply to Class 4 contributions.

<sup>1</sup>Reg. 4(11) inserted by reg. 2(3) of S.I. 2007/1154 as from 6.4.07.

►<sup>1</sup>(11) Where an amount is retrospectively treated as earnings (“retrospective earnings”) by regulations made by virtue of section 4B(2) of the Act, the “due date” for earnings-related contributions in respect of those earnings is the date given by paragraph 11A of Schedule 4 to the Social Security (Contributions) Regulations 2001, for the purposes of this regulation and regulations 5 and 5A.◄

**Treatment for the purpose of any contributory benefit of late paid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor**

**5.—**(1) This regulation applies where a primary Class 1 contribution which is payable on a primary contributor's behalf by a secondary contributor—

- (a) is paid after the due date; or
- (b) in relation to any claim for—
  - (i) a contribution-based jobseeker's allowance, is not paid before the beginning of the relevant benefit year, or
  - (ii) short-term incapacity benefit, is not paid before the relevant time,

<sup>2</sup>Words inserted in reg. 5(1) by reg. 19 of S.I. 2002/2366 as from 8.10.02.

and the delay in making payment is shown to the satisfaction of ►<sup>2</sup>an officer of◄ the Inland Revenue not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary contributor.

(2) Where paragraph (1) above applies, the primary Class 1 contribution shall be treated—

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(a) S. 2(1)(b) was modified by regs. 158 and 167 of S.I. 1996/207.

- (a) for the purpose of the first contribution condition of entitlement to a contribution-based jobseeker's allowance or short-term incapacity benefit, as paid on the day on which payment is made of the earnings in respect of which the contribution is payable; and
- (b) for any other purpose relating to entitlement to any contributory benefit, as paid on the due date.

(3) For the purposes of this regulation—

- (a) “first contribution condition” in relation to—
  - (i) a contribution-based jobseeker's allowance is a reference to the condition specified in section 2(1)(a) of the Jobseeker's Act 1995(a),
  - (ii) short-term incapacity benefit is a reference to the condition specified in paragraph 2(2) of Schedule 3 to the Act(b);
- (b) “primary contributor” means the person liable to pay a primary Class 1 contribution in accordance with section 6(4)(a) of the Act(c) (liability for Class 1 contributions);
- (c) “secondary contributor” means the person who, in respect of earnings from employed earner's employment, is liable to pay a secondary Class 1 contribution in accordance with section 6(4)(b) of the Act.

**►<sup>1</sup>Treatment for the purpose of any contributory benefit of duly paid primary Class 1 contributions in respect of retrospective earnings**

<sup>1</sup>Reg. 5A inserted by reg. 2(4) of S.I. 2007/1154 as from 6.4.07.

**5A.** Where a primary Class 1 contribution payable in respect of retrospective earnings is paid by the due date, it shall be treated—

- (a) for the purposes of the first contribution condition of entitlement to a contribution-based jobseeker's allowance or short-term incapacity benefit, as paid on the day on which payment is made of the retrospective earnings in respect of which the contribution is payable; and
- (b) for any other purpose relating to entitlement to any contributory benefit, as paid on the due date.◄

**Treatment for the purpose of any contributory benefit of contributions under the Act paid late through ignorance or error**

**6.—(1)** In the case of a contribution paid by or in respect of a person after the due date, where—

- (a) the contribution is paid after the time when it would, under regulation 4 or 5 above, have been treated as paid for the purpose of entitlement to contributory benefit; and
- (b) it is shown to the satisfaction of ►<sup>2</sup>an officer of◄ the Inland Revenue that the failure to pay the contribution before that time is attributable to ignorance or error on the part of that person or the person making the payment and that that ignorance or error was not due to any failure on the part of such person to exercise due care and diligence,

<sup>2</sup>Words inserted & substituted in reg. 6(1) by reg. 19 of S.I. 2002/2366 as from 8.10.02.

►<sup>2</sup>an officer of the Inland Revenue may direct◄, for the purposes of those regulations, the contribution shall be treated as paid on such earlier day as ►<sup>2</sup>the officer considers◄ appropriate in the circumstances, and those regulations shall have effect subject to any such direction.

(2) This regulation shall not apply to a Class 4 contribution.

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(a) S. 2(1)(a) was modified by regs. 158 and 167 of S.I. 1996/207.

(b) Para. 2(2) is amended by s. 62(2) of the Welfare Reform and Pensions Act 1999.

(c) S. 6 was substituted by para. 2 of Sch. 9 to the Welfare Reform and Pensions Act 1999 and amended by s. 77(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

<sup>1</sup>Reg. 6A inserted by reg. 2(b) of S.I. 2004/1361 as from 17.5.04.

**▶<sup>1</sup>Treatment for the purposes of any contributory benefit of certain Class 3 contributions**

**6A.**—(1) For the purposes of entitlement to any contributory benefit, this regulation applies in the case of a Class 3 contribution paid after the due date—

- (a) which would otherwise under regulation 4—
  - (i) have been treated as paid on a day other than on the day on which it was actually paid; or
  - (ii) have been treated as not paid; and
- (b) which is paid in respect of a year after 5th April 1996 but before 6th April 2002.

(2) A contribution referred to in paragraph (1), where it is paid on or before 5th April 2009 by or in respect of a person who attains pensionable age on or after 6th April 2008, shall be treated as paid on the day on which it is paid.

(3) A contribution referred to in paragraph (1), where it is paid on or before 5th April 2009 by or in respect of a person who attains pensionable age on or after 24th October 2004 but before 6th April 2008, shall be treated as paid on—

- (a) the day on which it is paid; or
- (b) the date on which the person attained pensionable age,

whichever is the earlier.

(4) A contribution referred to in paragraph (1), where it is paid on or before 5th April 2010 by or in respect of a person who attains pensionable age on or after 6th April 1998 but before 24th October 2004, shall be treated as paid on—

- (a) 1st October 1998; or
- (b) the date on which the person attained pensionable age,

whichever is the later. ◀

**Treatment for the purpose of any contributory benefit of contributions paid under regulation 54 of the Contributions Regulations**

**7.**—(1) Subject to the provisions of paragraph (2) below, for the purpose of entitlement to any contributory benefit, where—

- (a) a person pays a Class 2 or Class 3 contribution in accordance with regulation 54 of the Contributions Regulations (a) (method of, and time for, payment of Class 2 and Class 3 contributions etc.); and
- (b) the due date for payment of that contribution is a date after the relevant day,

that contribution shall be treated as paid by the relevant day.

(2) Where, in respect of any part of a late notification period, a person pays a Class 2 contribution which he is liable to pay, that contribution shall be treated as paid after the due date, whether or not it was paid by the due date.

(3) For the purposes of this regulation—

- (a) “late notification period” means the period beginning with the day a person liable to pay a Class 2 contribution was first required to notify the Inland Revenue in accordance with the provisions of regulation 53A of the Contributions Regulations (b) (notification of commencement or cessation of payment of Class 2 or Class 3 contributions) and ending on the last day of the contribution quarter immediately before the contribution quarter in which he gives that notification;

(a) Reg. 54 was substituted by reg. 5 of S.I. 1993/260.

(b) Reg. 53A was inserted by reg. 4 of S.I. 1993/260 and amended by reg. 8 of S.I. 2000/2343 and reg. 2 of S.I. 2001/45.

- (b) “relevant day” means the first day in respect of which a person would have been entitled to receive the contributory benefit in question if any contribution condition relevant to that benefit had already been satisfied;
- (c) “contribution quarter” means one of the four periods of not less than 13 contribution weeks commencing on the first day of the first, fourteenth, twenty-seventh or fortieth contribution week, in any year.

**Treatment for the purpose of any contributory benefit of contributions paid under an arrangement**

8. For the purposes of regulations 4 to 7 above and regulation 40 of the Contributions Regulations (voluntary Class 2 contributions not paid within permitted period)–

- (a) where a contribution is paid under an arrangement to which regulations 46A and 48 or, as the case may be, regulation 54A of the Contributions Regulations (a) (other methods of collection and recovery of earnings-related contributions; special provisions relating to primary Class 1 contributions and arrangements approved by the Inland Revenue for method of, and time for, payment of Class 2 and Class 3 contributions respectively) apply, the date by which, but for the said regulations 4 to 7 and 40, the contribution would have fallen due to be paid shall, in relation to that contribution, be the due date;
- (b) any payment made of, or as on account of, a contribution in accordance with any such arrangement shall, on and after the due date, be treated as a contribution paid on the due date.

**Application for allocation of national insurance number**

9.—(1) Subject to the provisions of paragraph (2) below, every person, who is over the age of 16 and satisfies the conditions specified in regulation 87 or 119 of the Contributions Regulations (b) (conditions of domicile or residence and conditions as to residence or presence in Great Britain respectively), shall, unless he has already been allocated a national insurance number under the Act, the Social Security Act 1975 (c) or the National Insurance Act 1965 (d), apply either to the Secretary of State or to the Inland Revenue for the allocation of a national insurance number and shall make such application at such time and in such manner as the Secretary of State shall direct.

▶<sup>1</sup>(1A) An application under paragraph (1) shall be accompanied by a document of a description specified for the time being in Part 1 or Part 2, except paragraph 1(a) of Part 2, of the Schedule to the Immigration (Restrictions on Employment) Order 2004 (e) ◀

<sup>1</sup>Paras. (1A) & (4) added to reg. 9 by reg. 2(a) & (b) of S.I. 2006/2897 as from 11.12.06 and 1.3.07 respectively.

(2) As respects any person who is neither an employed earner nor a self-employed earner the provisions of paragraph (1) above shall not apply unless and until that person wishes to pay a Class 3 contribution.

(3) The Secretary of State may authorise arrangements for the allocation of a national insurance number to any person during the 12 months before that person reaches the age of 16, and in particular may direct that a person who will attain the age of 16 within 12 months after such direction shall apply for the allocation of a national insurance number before attaining the age of 16, and any such person shall accordingly comply with such direction.

▶<sup>1</sup>(4) Where a person–

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(a) Reg. 46A was inserted by reg. 8 of S.I. 2000/2207 and amended by reg. 4 of S.I. 2000/2744. Reg. 54A was substituted by reg. 5 of S.I. 1993/260 and amended by regulations 10 and 11 of S.I. 2000/2343.

(b) Reg. 119 was amended by reg. 3 of S.I. 1989/572, reg. 8 of S.I. 1992/97 and reg. 9 of S.I. 1999/567.

(c) 1975 c. 14.

(d) 1965 c. 51.

(e) S.I. 2004/755, amended by S.I. 2006/1003.

**SOCIAL SECURITY (CREDITING AND TREATMENT OF CONTRIBUTIONS, AND NATIONAL INSURANCE NUMBERS) REGULATIONS 2001**

- (a) qualifies for a loan made in accordance with regulations made under section 22 of the Teaching and Higher Education Act 1998(a) (new arrangements for giving financial support to students) or sections 73 to 74(1) of the Education (Scotland) Act 1980(b) in connection with an academic year beginning on or after 1st September 2007; and
- (b) has been required as a condition of entitlement to payment of the loan to provide his national insurance number,

he shall, unless he has already been allocated a national insurance number, apply to the Secretary of State or the Commissioners for Her Majesty's Revenue and Customs for one to be allocated to him, and the Secretary of State or, as the case may be, the Commissioners may direct how the application is to be made.

**Deduction of contribution from pensions etc. - prescribed enactments and instruments under which payable**

**10.** For the purposes of paragraph 10 of Schedule 1 to the Act (power to deduct contributions from a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument), the enactments and instruments are—

- (a) Order in Council 19th December 1881;
- (b) The Royal Warrant 27th October 1884;
- (c) The Naval and Military War Pensions Act 1915(c);
- (d) The War Pensions Act 1920(d);
- (e) The War Pensions Act 1921(e);
- (f) Order by His Majesty 14th January 1922;
- (g) The War Pensions (Coastguards) Scheme 1944(f);
- (h) The Royal Warrant 1964(g);
- (i) The Order by Her Majesty 1964(h);
- (j) The War Pensions (Naval Auxiliary Personnel) Scheme 1964(i);
- (k) The Pensions (Polish Forces) Scheme 1964(j);
- (l) The War Pensions (Mercantile Marine) Scheme 1964(k);
- (m) The Order by Her Majesty (Ulster Defence Regiment) 1971(l);
- (n) The Personal Injuries (Civilians) Scheme 1983(m);
- (o) The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(n).

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(a) 1998 c. 30; section 22 was amended by section 146 of, and Schedule 11 to, the Learning and Skills Act 2000 (c. 21), Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), section 147(3) of the Finance Act 2003 (c. 14) and sections 42 and 43 of, and Schedule 7 to, the Higher Education Act 2004 (c. 8).

(b) 1980 (c. 44); section 73 was amended by section 29(1) of the Teaching and Higher Education Act 1998 (c. 30) and section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp. 6); sections 73A, 73B, 73C and 73D were inserted by section 29(2) of the Teaching and Higher Education Act 1998; section 74(1) was amended by paragraph 8(17) of, and Schedule 10 to, the Self Governing Schools etc. (Scotland) Act 1989 (c. 39). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(c) 1915 c. 83.

(d) 1920 c. 23.

(e) 1921 c. 49.

(f) S.I. 1944/500.

(g) Cmnd 2563.

(h) Cmnd 2564.

(i) S.I. 1964/1985.

(j) S.I. 1964/2007.

(k) S.I. 1964/2058.

(l) Cmnd 4567.

(m) S.I. 1983/686.

(n) S.I. 1983/883.

11. ▶<sup>1</sup>◀

<sup>1</sup>Reg. 11 revoked by reg. 157 of S.I. 2000/1004 as from 6.4.01.

**Revocations**

12. The regulations set out in column (1) of the Schedule to these Regulations are hereby revoked to the extent mentioned in column (3) of that Schedule.

Signed by authority of the Secretary of State for Social Security.

7th March 2001  
The Commissioners of Inland Revenue hereby concur.

*Jeff Rooker*  
Minister of State,  
Department of Social Security

7th March 2001  
Two of the Commissioners of Inland Revenue

*Ann Chant*  
*Nick Montagu*

**SCHEDULE**

Regulation 12

**REGULATIONS REVOKED**

Column (1) Citation	Column (2) Statutory Instrument	Column (3) Extent of Revocation
The Social Security (Contributions) Regulations 1979	S.I. 1979/591	Regulations 30, 36, 38, 41, 41A, 42, 44 and 55
The Social Security (Contributions) Amendment Regulations 1980	S.I. 1980/1975	Regulation 4
The Social Security (Contributions) Amendment Regulations 1984	S.I. 1984/77	Regulation 13
The Social Security (Contributions) Amendment (No. 2) Regulations 1987	S.I. 1987/413	Regulations 8 and 9
The Social Security (Contributions) Amendment (No. 5) Regulations 1992	S.I. 1992/669	Regulations 2 and 4
The Social Security (Contributions) Amendment (No. 6) Regulations 1993	S.I. 1993/2094	Regulations 3, 4 and 5
The Social Security (Contributions) Amendment (No. 2) Regulations 1994	S.I. 1994/1553	Regulation 3
The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995	S.I. 1995/829	Regulation 13(4)

**SOCIAL SECURITY (CREDITING AND TREATMENT OF CONTRIBUTIONS, AND NATIONAL INSURANCE NUMBERS) REGULATIONS 2001**

Column (1) Citation	Column (2) Statutory Instrument	Column (3) Extent of Revocation
The Social Security (Credits and Contributions) (Jobseeker's Allowance Consequential and Miscellaneous Amendments) Regulations 1996	S.I. 1996/2367	Regulation 3(4)
The Social Security Contributions, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations 1999	S.I. 1999/567	Regulation 7
The Social Security (Contributions and Credits) (Miscellaneous Amendments) Regulations 1999	S.I. 1999/568	Regulation 13
The Social Security (Contributions) (Amendment No. 8) Regulations 2000	S.I. 2000/2207	Regulation 6

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations consolidate certain regulations in the Social Security (Contributions) Regulations 1979 (S.I. 1979/591) ("the Contributions Regulations") relating to the appropriation and crediting of Class 3 contributions and the treatment of late paid social security contributions for the purposes of entitlement to contributory benefit and the application for the allocation of a national insurance number, which are hereby revoked. Accordingly, these Regulations do not require prior submission to the Social Security Advisory Committee and have not been so referred.

Regulation 1 contains provisions concerning the citation, commencement and interpretation of the Regulations.

Regulation 2 provides for the appropriation of Class 3 contributions to the earnings factor of another year.

Regulation 3 provides for the crediting of a Class 3 contribution where a person's earnings factor falls short of a figure equal to 52 times the lower earnings limit for Class 1 contributions for the relevant year.

Regulations 4 to 8 provide for the treatment of late paid contributions for contributory benefit purposes. Regulation 4 does so in respect of a contribution (other than a Class 4 contribution) paid before the end of the second or sixth year (as the case may be) in which it is due; regulation 5 in respect of a primary Class 1 contribution where the primary contributor has not been negligent or consented to or connived in its late payment; regulation 6 in respect of a contribution paid after the due date as a result of ignorance or error on the part of the person paying it; regulation 7 in respect of a Class 2 or a Class 3 contribution paid in accordance with specified provisions of the Contributions Regulations and regulation 8 in respect of a contribution paid on, or after, the due date under an arrangement approved by the Inland Revenue under specified provisions of those Regulations.

Regulation 9 provides for an application to be made to the Secretary of State or the Inland Revenue for the allocation of a national insurance number.

Regulation 10 specifies the enactments and instruments in respect of which the Secretary of State has the power to deduct contributions from certain pensions or allowances.

Regulation 11 makes consequential amendments to the Contributions Regulations.

Regulation 12 provides for the revocation of regulations set out in the Schedule to these Regulations.

These Regulations impose no costs on business.



## 2005 No. 2677

### SOCIAL SECURITY

#### The Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005

*Made* - - - - - 26th September 2005

*Laid before Parliament* 3rd October 2005

*Coming into force* - 6th April 2005

### ARRANGEMENT OF REGULATIONS

#### PART 1

##### *General*

1. Citation, commencement and interpretation

#### PART 2

##### *Deferral of retirement pensions and shared additional pension*

2. Interpretation
3. Timing of election
4. Manner of making election
5. Change of election
6. Amendment of the Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations 2005

#### PART 3

##### *Deferral of graduated retirement benefit*

7. Amendment of the Social Security (Graduated Retirement Benefit) Regulations 2005

#### PART 4

##### *Payments*

8. Amendment of the Claims and Payments Regulations

SOCIAL SECURITY (**DEFERRAL OF RETIREMENT PENSIONS, SHARED  
ADDITIONAL PENSION AND GRADUATED RETIREMENT BENEFIT**)  
(MISCELLANEOUS PROVISIONS) REGULATIONS 2005

## PART 5

*Decisions*

9. Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999
10. Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

## PART 6

*Amendment of benefit regulations*

11. Amendment of the Housing Benefit Regulations
12. Amendment of the Council Tax Benefit (General) Regulations 1992
13. Amendment of the State Pension Credit Regulations 2002

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 62(1)(a) and (c), 122(1), 136(5)(a) and (b), 137(1) and 175(1) and (3) to (5) of, and paragraphs A1(1) and (3) and 3C(2) and (4) of Schedule 5 and paragraphs 1(1) and (3) of Schedule 5A to, the Social Security Contributions and Benefits Act 1992(**a**), sections 5(1)(i) and 189(1), (4) and (6) of the Social Security Administration Act 1992(**b**), sections 9(1), 10(3) and (6), 11(1), 18(1)(a), 79(1) and (4) and 84 of the Social Security Act 1998(**c**), paragraphs 3(1), 4(4) and (6), 20(1) and (3) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(**d**), sections 15(6)(a) and (b) and 17(1) of the State Pension Credit Act 2002(**e**) and paragraph 27 of Schedule 11 to the Pensions Act 2004(**f**), and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make regulations 2 to 5 and 7 to 13 should not be referred to it(**g**) and in so far as these Regulations concern housing benefit and council tax benefit, after consultation with organisations appearing to the Secretary of State to be representative of the authorities concerned(**h**), hereby makes the following Regulations:

- 
- (a) 1992 c. 4. Section 62(1) is amended by paragraph 7 of Schedule 4 to the Pensions Act 1995 (c. 26), paragraph 17 of Schedule 11 to the Pensions Act 2004 (c. 35) and by S.I. 2005/2053. Section 175(1) is amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Transfer of Functions Act”). Section 175(1), (3) and (4) is applied to powers conferred by the State Pension Credit Act 2002 (c. 16) by section 19(1) of that Act. Paragraphs A1 and 3C of Schedule 5 are inserted and Schedule 5A added respectively by paragraphs 4, 9 and 15 of Schedule 11 to the Pensions Act 2004. Paragraph 3C of Schedule 5 is amended to apply to civil partners by S.I. 2005/2053. Sections 122(1) and 137(1) are cited for the definitions of “prescribe” and “prescribed” respectively.
  - (b) 1992 c. 5.
  - (c) 1998 c. 14. Section 18(1) is amended by paragraph 29 of Schedule 7 to the Transfer of Functions Act. Section 84 is cited for the definition of “prescribe”.
  - (d) 2000 c. 19. Paragraph 23(1) of Schedule 7 is cited for the definition of “prescribed”.
  - (e) Section 17(1) is cited for the definitions of “prescribed” and “regulations”.
  - (f) 2004 c. 35.
  - (g) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992. Paragraph 104 of Schedule 7 to the Social Security Act 1998, section 73 of the Child Support, Pensions and Social Security Act 2000 and paragraph 20 of Schedule 2 to the State Pension Credit Act 2002 respectively added the relevant provisions of those Acts to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee. Section 173(7) defines “regulations”.
  - (h) See section 176(1)(a) of the Social Security Administration Act 1992.

## PART 1

### GENERAL

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 and shall come into force on 6th April 2006.

(2) In these Regulations—

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(a);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(b).

## PART 2

### DEFERRAL OF RETIREMENT PENSIONS AND SHARED ADDITIONAL PENSION

#### Interpretation

2.—(1) In this Part—

“elector” means the person who may make an election under paragraph A1(1) or 3C(2) of Schedule 5 or paragraph 1(1) of Schedule 5A;

“retirement pension” means a Category A or a Category B retirement pension.

(2) In this Part, references to Schedules 5 and 5A are to those Schedules to the Social Security Contributions and Benefits Act 1992.

#### Timing of election

3.—(1) The period for making an election under—

(a) paragraph A1(1) of Schedule 5 (choice between increase of pension and lump sum where pensioner’s entitlement is deferred); and

(b) paragraph 1(1) of Schedule 5A (choice between pension increase and lump sum where entitlement to shared additional pension is deferred),

is, subject to paragraph (4), three months starting on the date shown on the notice issued by the Secretary of State following the claim for retirement pension or shared additional pension, confirming that the elector is required to make that election.

(2) The period for making an election under paragraph 3C(2) of Schedule 5 (choice between increase of pension and lump sum where pensioner’s deceased spouse or civil partner has deferred entitlement) is, subject to paragraph (4), three months starting on the date shown on the notice issued by the Secretary of State following W’s claim for retirement pension or, if later, the date of S’s death, confirming that the elector is required to make that election(c).

(3) Where more than one notice has been issued by the Secretary of State in accordance with paragraph (1) or (2), the periods prescribed in those paragraphs shall only commence from the date shown on the latest such notice.

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(a) S.I.1987/1968.

(b) S.I. 1987/1971.

(c) “W” and “S” have the same meaning for the purposes of this sub-paragraph as for the purposes of paragraph 3C of Schedule 5.

(4) The periods specified in paragraphs (1) and (2) may be extended by the Secretary of State if he considers it reasonable to do so in any particular case.

(5) Nothing in this regulation shall prevent the making of an election on or after claiming retirement pension or, as the case may be, shared additional pension but before the issue of the notice referred to in paragraph (1) or (2).

#### **Manner of making election**

**4.** An election under paragraph A1(1) or 3C(2) of Schedule 5 or under paragraph 1(1) of Schedule 5A may be made—

- (a) in writing to an office specified by the Secretary of State for accepting such elections; or
- (b) except where the Secretary of State directs in any particular case that the election must be made in accordance with paragraph (a), by telephone call to the telephone number specified by the Secretary of State.

#### **Change of election**

**5.—(1)** Subject to paragraphs (2) and (6), this regulation applies in the case of an election which—

- (a) has been made under paragraph A1(1) or 3C(2) of Schedule 5 or under paragraph 1(1) of Schedule 5A; or
- (b) has been treated as made under paragraph A1(2) or 3C(3) of Schedule 5 or under paragraph 1(2) of Schedule 5A.

(2) This regulation does not apply in the case of an election which is—

- (a) made, or treated as made, by an elector who has subsequently died; or
- (b) treated as having been made by virtue of ►regulation 30(5E) or (5G)◄ of the Claims and Payments Regulations.

(3) An election specified in paragraph (1) may be changed by way of application made no later than the last day of the period specified in paragraph (4).

(4) The period specified for the purposes of paragraph (3) is, subject to paragraph (5), three months starting on the date shown on the written notification issued by the Secretary of State to the elector, confirming the election which the elector has made or is treated as having made.

(5) The period specified in paragraph (4) may be extended by the Secretary of State if he considers it reasonable to do so in any particular case.

(6) An election specified in paragraph (1) may not be changed where—

- (a) there has been a previous change of election under this regulation in respect of the same period of deferment;
- (b) the application is to change the election to one under paragraph A1(1)(a) or 3C(2)(a) of Schedule 5 or paragraph 1(1)(a) of Schedule 5A and any amount paid to him by way of, or on account of, a lump sum pursuant to Schedule 5 or 5A, has not been repaid in full to the Secretary of State within the period specified in paragraph (4) or, as the case may be, (5); or
- (c) the application is to change the election to one under paragraph A1(1)(b) or 3C(2)(b) of Schedule 5 or paragraph 1(1)(b) of Schedule 5A and the amount actually paid by way of an increase of retirement pension or shared additional pension, or actually paid on account of such an increase, would exceed the amount to which the elector would be entitled by way of a lump sum.

Words substituted in  
reg. 5(2)(b) by reg. 4 of  
S.I. 2006/516 as from  
6.4.06.

(7) For the purposes of paragraph (6)(b), repayment in full of the amount paid by way of, or on account of, a lump sum shall only be treated as having occurred if repaid to the Secretary of State in the currency in which that amount was originally paid.

(8) Where the application is to change the election to one under paragraph A1(1)(b) or 3C(2)(b) of Schedule 5 or paragraph 1(1)(b) of Schedule 5A and paragraph (6)(c) does not apply, any amount paid by way of an increase of retirement pension or shared additional pension, or on account of such an increase, in respect of the period of deferment for which the election was originally made, shall be treated as having been paid on account of the lump sum to which the elector is entitled under paragraph 3A or 7A of Schedule 5 or, as the case may be, paragraph 4 of Schedule 5A.

(9) An application under paragraph (3) to change an election may be made—

- (a) in writing to an office specified by the Secretary of State for accepting such applications; or
- (b) except where the Secretary of State directs in any particular case that the application must be made in accordance with sub-paragraph (a), by telephone call to the telephone number specified by the Secretary of State.

[Regulation 6 amends regulation 2 of S.I. 2005/469.]

[Regulation 7 amends Schedule 1 and 2 of S.I. 2005/454.]

[Regulation 8 inserts regulation 21A into S.I. 1987/1968.]

[Regulation 9 amends various regulations in S.I. 1999/991.]

[Regulation 10 amends regulations 4, 7 and 8 of S.I. 2001/1002.]

[Regulation 11 amends regulations 2, 36 and Schedule 5 of S.I. 1987/1971.]

[Regulation 12 amends regulations 2, 28 and Schedule 5 of S.I. 1992/1814.]

[Regulation 13 amends regulation 1 and 18 of S.I. 2002/1792.]

Signed by authority of the Secretary of State for Work and Pensions

26th September 2005

*Stephen C. Timms*  
Minister of State,  
Department for Work and Pensions

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision relating to changes to the regime for deferring entitlement to state pension made by the Pensions Act 2004 (c. 35) which provide for a choice between increments and a lump sum for those who have deferred their entitlement to retirement pension, shared additional pension or graduated retirement benefit, for 12 months or more.

Part 2 makes provision in relation to deferral of retirement pension and shared additional pension. Regulation 3 prescribes the period within which an election between increments and lump sums of retirement pension and shared additional pension must be made and regulation 4 prescribes the manner in which such elections must be made. Regulation 5 prescribes the circumstances and manner in which, and time within which, changes to such elections can be made. Regulation 6 omits a transitional provision relating to deferral of retirement pension.

Part 3 makes equivalent provision to Part 2 in relation to deferral of graduated retirement benefit.

Part 4 relates to payments. Regulation 8 amends the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968). It provides that when a person chooses a lump sum he may elect to be paid it in the tax year following the tax year which would otherwise be the year for assessing tax on the lump sum.

Part 5 relates to decisions. Regulation 9 amends the Child Support and Social Security (Decisions and Appeals) Regulations 1999 (S.I. 1999/991). Paragraphs (3), (4) and (5) provide for the revision or supersession of a state pension credit decision when a person becomes entitled to a lump sum. Paragraph (3) also provides for revision of a retirement pension, shared additional pension or graduated retirement benefit decision when an election is changed pursuant to provision made in Parts 2 and 3 of these Regulations. Paragraph (6) provides that a claim for such a pension or benefit following deferment may be decided pending an election for increments or a lump sum.

Regulation 10 amends the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (S.I. 2001/1002) to provide for the revision or supersession of a housing benefit or council tax benefit decision when a person becomes entitled to a lump sum.

Part 6 amends various benefit regulations in so far as they relate to deferral of retirement pension, shared additional pension and graduated retirement benefit. Regulations 11 and 12 amend respectively the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) as modified by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325) for persons who have attained the qualifying age for state pension credit and regulation 13 amends the State Pension Credit Regulations 2002 (S.I. 2002/1792).

In regulations 11 to 13, paragraph (2) prescribes a definition of the Graduated Retirement Benefit Regulations for the purposes of those benefits, paragraph (3) provides an exception to the notional income rule in those benefits where a person having deferred their pension or benefit in favour of an increase of pension or benefit, changes that election in favour of a lump sum and paragraph (4) provides that an amount of capital equal to the amount of a payment on account of a lump sum or the amount of the lump sum itself, is to be disregarded in the calculation of income in the case of state pension credit and capital in the case of housing benefit and council tax benefit.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities and voluntary bodies.

## SCHEDULE 2

Regulation 12(2)

PRESCRIBED CIRCUMSTANCES FOR INCREASE OF <sup>1</sup>A  
CARER'S ALLOWANCE<sup>◀</sup>

<sup>1</sup>Words substituted in Sch. 2 title, Part 1 title & in paras. 1, 2, & 2BB by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

## PART I

**Increase of <sup>1</sup>carer's allowance<sup>◀</sup> for child dependants**

1. For the purposes of increases of <sup>1</sup>carer's allowance<sup>◀</sup> for child dependants under section 49, the prescribed circumstances in which a beneficiary is entitled to such an increase for any period shall be as set out in the following paragraphs.

2. The weekly rate of <sup>1</sup>a carer's allowance<sup>◀</sup> for any period for which the beneficiary is entitled to child benefit in respect of a child or children shall be increased in respect of that child, or each respectively of those children, by the appropriate amount specified in relation to that allowance in column (2) of Part IV of Schedule 4 to the Act.

**<sup>2</sup>2A. Where—**

- <sup>3</sup>(a) a beneficiary is a member of a couple; and<sup>◀</sup>
  - (i) spouses residing together; or
  - (ii) an unmarried couple; and
- (b) the other <sup>3</sup>member of the couple<sup>◀</sup> had earnings in any week,

the beneficiary's right to payment of increases for the following week under paragraph 2 above shall be determined in accordance with paragraph 2B below.

**2B. No increase shall be payable—**

- (a) in respect of the first child where the earnings were <sup>4</sup>£180<sup>◀</sup> or more; and
- (b) in respect of a further child for each complete <sup>4</sup>£24<sup>◀</sup> by which the earnings exceeded <sup>4</sup>£180<sup>◀</sup>.

<sup>5</sup>2BB. The provisions of paragraphs 2A and 2B above shall not apply so as to affect entitlement to an increase of <sup>1</sup>carer's allowance<sup>◀</sup> in respect of a child in any case where the beneficiary—

- (a) was entitled to receive such an increase immediately before 26th November 1984; and
- (b) throughout the period from and including that date to the date of coming into operation of this paragraph was, or but for the operation of those paragraphs would have been, continuously so entitled.<sup>◀</sup>

until such time as he would otherwise first cease to be so entitled.<sup>◀</sup>

**2C. In this Part of this Schedule—****<sup>6</sup>◀****<sup>6</sup>“couple” means**

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

<sup>2</sup>Para. 2A, 2B and 2C inserted by reg. 3(c) of S.I. 1984/1699 as from 26.11.84.

<sup>3</sup>In para. 2A, sub-para. (a) substituted & word in sub-para. (b) substituted by para. 7(7)(a) of Sch. 3 to S.I. 2005/2877 as from 10.4.06.

<sup>4</sup>Amounts substituted by reg. 4 of S.I. 2007/775 as from 9.4.07.

<sup>5</sup>Para. 2BB inserted by reg. 5(a) of S.I. 1987/355 as from 6.4.87.

<sup>6</sup>In para. 2C, defn. of “unmarried couple” omitted & “couple” inserted by para. 7(7)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

## Sch. 2

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;◀

<sup>1</sup>Defn. of “week” substituted in para. 2C by reg. 17(b) of S.I. 1996/2745 as from 25.11.96.

▶<sup>1</sup>“week” means any period of 7 days corresponding to the week in respect of which the relevant social security benefit is due to be paid or ending on the day before the first day of the first such week following the date of claim.◀◀

<sup>2</sup>Words substituted in paras. 3 by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

3. Where a person is entitled to receive payment of an amount by way of an increase of ▶<sup>2</sup>a carer’s allowance◀ under paragraph 2 above, that increase shall not be payable unless one of the following conditions is satisfied—

- (a) that the beneficiary would be treated for the purposes of the Child Benefit Act as having the child living with him; or
- (b) that the requisite contributions are being made to the cost of providing for the child.

4. The condition specified in paragraph 3(b) above is to be treated as satisfied if, but only if—

- (a) such contributions are being made at a weekly rate not less than the amount referred to in paragraph 2 above—
  - (i) by the beneficiary, or
  - (ii) where the beneficiary is one of two spouses ▶<sup>3</sup>or civil partner◀ residing together, by them together; and
- (b) the contributions are over and above those required for the purposes of satisfying subsection (1)(b) of section 3 of the Child Benefit Act.

<sup>3</sup>In para. 4(a)(ii) & 7(a) words inserted by reg. 7(7)(c) & (d) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

5. Any sum or sums paid by a person by way of contribution towards the cost of providing for two or more children being children in respect of whom, in the period for which the sum in question is paid by the person, he is entitled to child benefit shall be treated as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of those children so as to secure as large a payment as possible by way of ▶<sup>4</sup>carer’s allowance◀ in respect of them.

<sup>4</sup>Words substituted in paras. 5, 6 & 7 by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

## PART II

**Increase of ▶<sup>4</sup>carer’s allowance◀ for adult dependants**

6. For the purposes of increases of ▶<sup>4</sup>carer’s allowance◀ for adult dependants under section 49, the prescribed circumstances in which a beneficiary is entitled to such an increase for any period shall be as set out in paragraph 7 below.

7. The weekly rate of ▶<sup>4</sup>a carer’s allowance◀ shall be increased by the amount specified in relation to that allowance in column (3) of Part IV of Schedule 4 to the Act for any period during which the beneficiary is residing with—

<sup>5</sup>Sub-para. (a) and (b) substituted retrospectively from 22.12.84 by Social Security Act 1986 (c. 50), s. 37(2).

- ▶<sup>5</sup>▶<sup>6</sup> (a) a spouse ▶<sup>3</sup>or civil partner◀ whose weekly earnings do not exceed that amount;◀ or
- (b) some person (not being a child ▶<sup>7</sup>or qualifying young person◀) who—
  - (i) has the care of a child or children ▶<sup>7</sup>or a qualifying young person or persons◀ in respect of whom the beneficiary is entitled to child benefit ▶<sup>8</sup>◀◀ ;
  - (ii) is not undergoing imprisonment or detention in legal custody;
  - ▶<sup>9</sup>(iii) if he had earnings, does not have weekly earnings exceeding that amount and for this purpose there shall be disregarded any weekly earnings derived from employment by the beneficiary in caring for a child or children ▶<sup>7</sup>or a qualifying young person or persons◀ in respect of whom the beneficiary is entitled to child benefit;◀

<sup>6</sup>Sub-para. (a) of para. 7 substituted by reg. 5(a) of S.I. 1988/554 as from 11.4.88.

<sup>7</sup>Words inserted in para. 7(b), (b)(i) & (b)(iii) by reg. 2(4) of S.I. 2006/692 as from 10.4.06.

<sup>8</sup>Words omitted by reg. 5(b) of S.I. 1987/355 as from 6.4.87.

<sup>9</sup>Head (iii) of para. 7(b) substituted by reg. 5(b) of S.I. 1988/554 as from 11.4.88.

**2006 No. 500**

**SOCIAL SECURITY**

**The Social Security Pensions (Low Earnings  
Threshold) Order 2006**

<i>Made</i> - - - -	<i>27th February 2006</i>
<i>Laid before Parliament</i>	<i>3rd March 2006</i>
<i>Coming into force</i> -	<i>6th April 2006</i>

The Secretary of State for Work and Pensions has reviewed the general level of earnings obtaining in Great Britain as required by section 148A of the Social Security Administration Act 1992(a) and it appears to him that the general level of earnings has increased during the review period.

Accordingly, the Secretary of State, in exercise of the powers conferred on him by section 148A, makes the following Order.

**Citation and commencement**

**1.** This Order may be cited as the Social Security Pensions (Low Earnings Threshold) Order 2006 and shall come into force on 6th April 2006.

**Low earnings threshold**

**2.** It is hereby directed that, for the purposes of the Social Security Contributions and Benefits Act 1992(b), the low earnings threshold(c) for the tax years following the tax year 2005 - 2006 shall be £12,500.

Signed by authority of the Secretary of State for Work and Pensions.

27th February 2006

*Stephen C. Timms*  
Minister of State,  
Department for Work and Pensions

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(a) 1992 c. 5. See subsections (1) and (2) of section 148A which was inserted by section 33(1) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(b) 1992 c. 4.

(c) See section 44A of the Social Security Contributions and Benefits Act 1992 as inserted by section 30(3) of the Child Support, Pensions and Social Security Act 2000.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made following a review by the Secretary of State under section 148A(1) of the Social Security Administration Act 1992 (c. 5) of the general level of earnings in Great Britain with a view to determining whether, and if so by how much, the amount of the low earnings threshold for the purposes of the Social Security Contributions and Benefits Act 1992 (c. 4) should be increased for future tax years. As a result of that review, it appears to the Secretary of State that the general level of such earnings during the period from 1st October 2004 to 30th September 2005 has increased by 3.4 per cent.

This Order directs that the low earnings threshold for the tax years following 2005 - 2006 shall be £12,500. The threshold for the tax year 2005 - 2006 was £12,100 by virtue of S.I. 2005/217. The low earnings threshold is the amount by reference to which the three surplus earnings bands are determined for the purpose of calculating the additional pension (the state second pension) in a state retirement pension.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities and voluntary bodies.

**2007 No. 776**

**SOCIAL SECURITY**

**The Social Security Pensions (Low Earnings  
Threshold) Order 2007**

<i>Made</i> - - - -	<i>8th March 2007</i>
<i>Laid before Parliament</i>	<i>15th March 2007</i>
<i>Coming into force</i> -	<i>6th April 2007</i>

The Secretary of State for Work and Pensions has reviewed the general level of earnings obtaining in Great Britain as required by section 148A of the Social Security Administration Act 1992(a) and it appears to him that the general level of earnings has increased during the review period.

Accordingly, the Secretary of State, in exercise of the powers conferred on him by section 148A, makes the following Order.

**Citation and commencement**

**1.** This Order may be cited as the Social Security Pensions (Low Earnings Threshold) Order 2007 and shall come into force on 6th April 2007.

**Low earnings threshold**

**2.** It is hereby directed that, for the purposes of the Social Security Contributions and Benefits Act 1992(b), the low earnings threshold(c) for the tax years following the tax year 2006 – 2007 shall be £13,000.

Signed by authority of the Secretary of State for Work and Pensions.

8th March 2007

*James Purnell*  
Minister of State,  
Department for Work and Pensions

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(a) 1992 c. 5. See subsections (1) and (2) of section 148A which was inserted by section 33(1) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(b) 1992 c. 4.

(c) See section 44A of the Social Security Contributions and Benefits Act 1992 as inserted by section 30(3) of the Child Support, Pensions and Social Security Act 2000.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made following a review by the Secretary of State under section 148A(1) of the Social Security Administration Act 1992 (c. 5) of the general level of earnings in Great Britain with a view to determining whether, and if so by how much, the amount of the low earnings threshold for the purposes of the Social Security Contributions and Benefits Act 1992 (c. 4) should be increased for future tax years. As a result of that review, it appears to the Secretary of State that the general level of such earnings during the period from 1st October 2005 to 30th September 2006 has increased by 4.1 per cent.

This Order directs that the low earnings threshold for the tax years following 2006 – 2007 shall be £13,000. The threshold for the tax year 2006 – 2007 was £12,500 by virtue of S.I. 2006/500. The low earnings threshold is the amount by reference to which the three surplus earnings bands are determined for the purpose of calculating the additional pension (the state second pension) in a state retirement pension.

A full regulatory impact assessment has not been produced for this instrument as no new impact on the private or voluntary sectors is foreseen.

## 2000 No. 688

### SOCIAL SECURITY

#### The Social Security (Maternity Allowance) (Earnings) Regulations 2000

<i>Made</i> - - - - -	<i>9th March 2000</i>
<i>Laid before Parliament</i>	<i>10th March 2000</i>
<i>Coming into force</i>	<i>2nd April 2000</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 35A(4), (5) and (6)(c), 122(1) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992(a) and of all other powers enabling him in that behalf by this instrument, which is made before the end of the period of 6 months beginning with the coming into force of the enactments under which it is made(b), hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Maternity Allowance) (Earnings) Regulations 2000 and shall come into force on 2nd April 2000.

(2) In these Regulations—

“certificate of small earnings exception” means a certificate issued pursuant to regulation 24(1) of the Contributions Regulations;

▶<sup>1</sup>“the Contributions Regulations” means the Social Security (Contributions) Regulations 2001;◀

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;

“test period” means the period of 66 weeks specified in section 35(1)(b) of the Contributions and Benefits Act.

<sup>1</sup>Defn. of “the Contributions Regulations” and sub-para. (za) substituted and inserted by reg. 7 (2) & (3) of S.I. 2007/1154 as from 6.4.07.

#### Specified payments for employed earners

2.—(1) Subject to paragraph (2), for the purposes of section 35A(4)(a) of the Contributions and Benefits Act, the payments specified for a woman who is an employed earner in any week falling within the test period shall be all payments made to her or for her benefit as an employed earner including—

▶<sup>1</sup>(za) any amount retrospectively treated as earnings by regulations made by virtue of section 4B(2) of the Contributions and Benefits Act;◀

(a) any sum payable in respect of arrears of pay in pursuance of an order for reinstatement under section 114 or re-engagement under section 115 of the Employment Rights Act 1996 (orders for reinstatement and re-engagement)(c);

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(a) 1992 c. 4. Section 35A was inserted by section 53(3) of the Welfare Reform and Pensions Act 1999 (c. 30); section 122(1) is cited because of the meaning ascribed to the word “prescribe”; section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) See section 173(5) of the Social Security Administration Act 1992 (c. 5).

(c) 1996 c. 18.

## Regs. 2-5

- (b) any sum payable by way of pay in pursuance of an order made under section 129 of the Employment Rights Act 1996 (procedure on hearing of application and making of order) for the continuation of a contract of employment;
- (c) any sum payable by way of remuneration in pursuance of a protective award under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 (complaint ... and protective award)(a);
- (d) any sum payable by way of statutory sick pay, including sums payable in accordance with regulations made under section 151(6) of the Contributions and Benefits Act (employers' liability)(b);
- (e) any sum payable by way of statutory maternity pay, including sums payable in accordance with regulations made under section 164(9)(b) of the Contributions and Benefits Act(c).
- ▶<sup>1</sup>(f) any sum payable by way of statutory paternity pay, including any sums payable in accordance with regulations made under section 171ZD(3) of the Contributions and Benefits Act;
- (g) any sum payable by way of statutory adoption pay, including any sums payable in accordance with regulations made under section 171ZM(3) of the Contributions and Benefits Act.◀

<sup>1</sup>Sub-paras. (f) & (g) inserted in reg. 2(1) by reg. 16 of S.I. 2002/2690 as from 8.12.02.

<sup>2</sup>Words substituted in reg. 2(2) by reg. 7(3)(b) of S.I. 2007/1154 as from 6.4.07.

(2) The payments specified shall not include any sum excluded from the computation of a person's earnings under regulation ▶<sup>2</sup>25, 27 or 123 of, or Schedule 3 to,◀ the Contributions Regulations (payments to be disregarded)(d).

**Specified payments for self-employed earners**

**3.** For the purposes of section 35A(4)(b) of the Contributions and Benefits Act, where a woman is a self-employed earner in any week falling within the test period, the payments treated as made to her or for her benefit shall be—

- (a) a payment equal to ▶<sup>3</sup>an amount 90 per cent of which is equal to the weekly rate prescribed under section 166(1)(b) of the Contributions and Benefits Act that is in force◀ on the last day of that week where she has paid a Class 2 contribution and she does not hold a certificate of small earnings exception in respect of that week; or
- (b) a payment equal to the maternity allowance threshold in force on the last day of that week, where she holds a certificate of small earnings exception in respect of that week.

<sup>3</sup>Words in reg. 3(a) substituted, in reg. 4(1) omitted, reg 4(2) omitted by regs. 17 to 19 of S.I. 2002/2690 as from 24.11.02.

**Aggregation of specified payments**

**4.—**(1) In a case ▶<sup>3</sup>◀ where a woman, either in the same week or in different weeks falling within the test period, is engaged in two or more employments (whether, in each case, as an employed earner or a self-employed earner), any payments which are made, or treated in accordance with these Regulations as made to her or for her benefit shall be aggregated for the purpose of determining the average weekly amount of specified payments applicable in her case.

(2) ▶<sup>3</sup>◀

<sup>4</sup>Reg. 5 substituted by reg. 2 of S.I. 2003/659 as from 6.4.03.

**▶<sup>4</sup>The specified period**

**5.—**(1) Subject to paragraph (2) below, for the purposes of section 35A (4) and (5) of the Contributions and Benefits Act, the specified period shall be the test period.

(2) Where a woman is treated by virtue of regulation 3(a) above as having received payments for at least 13 weeks (whether consecutive or not) falling within the test period, the first 13 such weeks shall be the specified period.◀

(a) 1992 c. 52.

(b) Section 151(6) was amended by paragraph 9 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(c) Section 164(9)(b) was amended by paragraph 12(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(d) Regulation 19A was inserted by S.I. 1987/1590 and regulation 19B by S.I. 1987/2111. The relevant amending instruments are S.I. 1991/640 and S.I. 1996/700.

**Determination of average weekly amount of specified payments**

6.—<sup>1</sup>(1) For the purposes of section 35A(4) of the Contributions and Benefits Act a woman's average weekly amount of specified payments shall, subject to paragraph (2) be determined by dividing by 13 the payments made, or treated in accordance with these Regulations as made, to her or for her benefit—

<sup>1</sup>Para. (1) substituted in reg. 6 by reg. 3 of S.I. 2003/659 as from 6.4.03.

- (a) in the case of a woman to whom paragraph (2) of regulation 5 applies, in the 13 weeks referred to in that paragraph;
- (b) in any other case, in the 13 weeks (whether consecutive or not) falling within the specified period in which such payments are greatest. ◀

(2) In any case where a woman receives a back-dated pay increase after the end of the period specified in regulation 5 above which includes a sum in respect of any week falling within that period, her average weekly amount of specified payments shall be determined as if such sum had been paid in that week.

▶<sup>2</sup>(3) Where a woman is normally paid other than weekly, the payments made or treated as made to her or for her benefit for the purposes of paragraph (1) shall be calculated by dividing the payments made to her in any week by the nearest whole number of weeks in the period in respect of which she is paid. ◀

<sup>2</sup>Para (3) inserted by reg. 20 of S.I. 2002/2690 as from 24.11.02.

Signed by authority of the Secretary of State for Social Security.

9th March 2000

*Angela Eagle*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for the payments which are, or are to be treated as, earnings for the purpose of determining entitlement to State Maternity Allowance.

Regulation 2 specifies payments for women who are employed earners.

Regulation 3 specifies the payments to be treated as made to or for the benefit of a woman who is a self-employed earner.

Regulation 4 provides for the aggregation of payments for the purpose of determining the average weekly amount of specified payments applicable in her case.

Regulation 5 specifies periods for the purposes of sections 35A(4) and (5) of the Social Security Contributions and Benefits Act 1992 ("the Contributions and Benefits Act").

Regulation 6 provides for the determination of the average weekly amount of specified payments for the purposes of section 35A(4) of the Contributions and Benefits Act.

These Regulations do not impose any costs on business.



## 2007 No. 781

### SOCIAL SECURITY

#### The Social Security Revaluation of Earnings Factors Order 2007

<i>Made</i> - - - -	<i>8th March 2007</i>
<i>Laid before Parliament</i>	<i>15th March 2007</i>
<i>Coming into force</i> -	<i>6th April 2007</i>

The Secretary of State for Work and Pensions has reviewed the general level of earnings obtaining in Great Britain as required by section 148 of the Social Security Administration Act 1992(a).

In accordance with that section, he has considered earlier orders made under it(b) and concluded that the earnings factors(c) for the relevant previous tax years have not maintained their value in relation to those earnings during the review period.

Accordingly, the Secretary of State, in exercise of the powers conferred upon him by sections 148(3) and (4) and 189(1), (4) and (5) of the Social Security Administration Act 1992(d) makes the following Order.

#### Citation and commencement

**1.** This Order may be cited as the Social Security Revaluation of Earnings Factors Order 2007 and shall come into force on 6th April 2007.

- 
- (a) 1992 c. 5. *See* section 148(2) as amended by section 37 of the Child Support, Pensions and Social Security Act 2000 (c. 19).
- (b) Section 148(3) and (4) of the Social Security Administration Act 1992 consolidated section 21(3) of the Social Security Pensions Act 1975 (c. 60). The earlier orders are: S.I. 1979/832, 1980/728, 1981/598, 1982/607, 1983/655, 1984/581, 1985/688, 1986/809, 1987/861, 1988/867, 1989/805, 1990/1412, 1991/1108, 1992/1102, 1993/1159, 1994/1105, 1995/1070, 1996/1133, 1997/1117, 1998/1137, 1999/1235, 2000/1365, 2001/631, 2002/519, 2003/517, 2004/262, 2005/216 and 2006/496. *See* also section 148(7)(b) of the Social Security Administration Act 1992 which provides that orders under section 21 of the Social Security Pensions Act 1975 are to be treated as orders under section 148.
- (c) *See* sections 22 and 23 of the Social Security Contributions and Benefits Act 1992 (c. 4). Section 22 was amended by paragraph 22 of Schedule 2 to the Jobseekers Act 1995 (c. 18), paragraph 61 of Schedule 7 to the Social Security Act 1998 (c. 14), section 30(1) of the Child Support, Pensions and Social Security Act 2000 and paragraph 7 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) subject to section 8(2) of that Act. Section 23 was amended by paragraph 36 of Schedule 8 to the Pension Schemes Act 1993 (c. 48), section 134(1) of the Pensions Act 1995 (c. 26) and paragraph 8 of Schedule 1 to the National Insurance Contributions Act 2002 subject to section 8(2) of that Act. *See* also sections 45B(6), 55A(5) and 55B(6) of the Social Security Contributions and Benefits Act 1992, inserted by paragraphs 2 and 3 of Schedule 6 to the Welfare Reform and Pensions Act 1999 (c. 30), under which state scheme pension debits and credits are to be increased by reference to percentage figures specified in orders under section 148 of the Social Security Administration Act 1992.
- (d) Section 189(1), (4) and (5) was amended by Schedules 7 and 8 to the Social Security Act 1998. Section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and by Schedule 6 to the Tax Credits Act 2002 (c. 21).

**Revaluation of earnings factors**

2. The earnings factors for tax years specified in the Schedule to this Order in so far as they are relevant(a)–

(a) to the calculation–

(i) of the additional pension in the rate of any long-term benefit; or

(ii) of any guaranteed minimum pension; or

(b) to any other calculation required under Part III of the Pension Schemes Act 1993(b) (including that Part as modified by or under any other enactment),

are directed to be increased for those tax years by the percentage of their amount shown opposite those tax years in that Schedule.

**Rounding of fractional amounts**

3. Where any earnings factor relevant to the calculation specified in article 2(a)(i) of this Order, as increased in accordance with this Order, would not but for this article be expressed as a whole number of pounds, it shall be so expressed by the rounding down of any fraction of a pound less than one half and the rounding up of any other fraction of a pound.

Signed by authority of the Secretary of State for Work and Pensions.

8th March 2007

*James Purnell*  
Minister of State,  
Department for Work and Pensions

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(a) Earnings factors for any tax year after 1996-97 are not relevant to the calculation of any guaranteed minimum; *see* section 14(8) of the Pension Schemes Act 1993 as amended by paragraph 27(b) of Schedule 5 to the Pensions Act 1995.

(b) 1993 c. 48.

SCHEDULE

Article 2

Tax Year	Percentage
1978-79	623.8
1979-80	538.8
1980-81	433.7
1981-82	347.0
1982-83	306.0
1983-84	276.9
1984-85	249.0
1985-86	227.4
1986-87	200.7
1987-88	179.9
1988-89	157.5
1989-90	132.4
1990-91	116.6
1991-92	96.7
1992-93	84.7
1993-94	75.9
1994-95	70.7
1995-96	63.5
1996-97	59.0
1997-98	51.4
1998-99	44.8
1999-2000	38.9
2000-2001	30.7
2001-2002	25.7
2002-2003	20.5
2003-2004	16.3
2004-2005	12.1
2005-2006	7.6
2006-2007	4.1

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made consequent upon a review under section 148 of the Social Security Administration Act 1992 (c.5).

This Order directs that the earnings factors relevant to the calculation of the additional pension in the rate of any long-term benefit or of any guaranteed minimum pension, or to any other calculation required under Part III of the Pension Schemes Act 1993 (c.48), are to be increased for the tax years specified in the Schedule to the Order by the percentage of their amount specified in that Schedule. The percentages specified in this Order for the tax years from and including 2000-2001 are also relevant for the purposes of revaluing state scheme pension debits and credits in accordance with sections 45B(6), 55A(5) and 55B(6) of the Social Security Contributions and Benefits Act 1992 (c.4). The percentage for the tax year 2006-2007 is 4.1 per cent., and those for earlier tax years have been increased so that the earnings factors for those years are revalued at 2006-2007 earnings levels.

This Order also provides for the rounding of fractional amounts for earnings factors relevant to the calculation of the additional pension in the rate of any long-term benefit. Rounding for the purpose of the calculation of any guaranteed minimum pension is not required by virtue of section 23(2) of the Social Security Contributions and Benefits Act 1992.

A full regulatory impact assessment has not been produced for this instrument as no new impact on the private or voluntary sectors is foreseen.

## REVALUATION OF EARNINGS FACTORS ORDERS

<i>S.I. No.</i> (a)	<i>Coming into Force</i> (b)	<i>Tax Year</i> (c)	<i>Percentage Increases</i> (d)	<i>Rounding of Fractional Amounts</i> (e)
2003/517	6.4.03	1978-79	522.3	In relation to additional pensions, the increased earnings factor to be expressed as a whole number of pounds. Any fraction of a pound, if less than a half to be rounded down; if a half or more to be rounded up.
		1979-80	449.2	
		1980-81	358.8	
		1981-82	284.3	
		1982-83	249.0	
		1983-84	224.1	
		1984-85	200.1	
		1985-86	181.5	
		1986-87	158.5	
		1987-88	140.7	
		1988-89	121.4	
		1989-90	99.8	
		1990-91	86.2	
		1991-92	69.2	
		1992-93	58.8	
		1993-94	51.3	
		1994-95	46.7	
		1995-96	40.5	
		1996-97	36.7	
		1997-98	30.2	
1998-99	24.5			
1999-2000	19.5			
2000-2001	12.4			
2001-2002	8.1			
2002-2003	3.6			
2004/262	6.4.04	1978/1979	545.9	do.
		1979/1980	470.1	
		1980/1981	376.3	
		1981/1982	298.9	
		1982/1983	262.3	
		1983/1984	236.4	
		1984/1985	211.5	
		1985/1986	192.2	
		1986/1987	168.3	
		1987/1988	149.8	
		1988/1989	129.8	
		1989/1990	107.4	
		1990/1991	93.3	
		1991/1992	75.6	
		1992/1993	64.9	
		1993/1994	57.0	
		1994/1995	52.3	
		1995/1996	45.9	
		1996/1997	41.9	
		1997/1998	35.1	
1998/1999	29.2			
1999/2000	24.0			
2000/2001	16.6			
2001/2002	12.2			
2002/2003	7.5			
2003/2004	3.8			

## REVALUATION OF EARNINGS FACTORS ORDERS

<i>S.I. No.</i> (a)	<i>Coming into Force</i> (b)	<i>Tax Year</i> (c)	<i>Percentage Increases</i> (d)	<i>Rounding of Fractional Amounts</i> (e)
2005/216	6.4.04	1978/1979	572.4	In relation to additional pensions, the increased earnings factor to be expressed as a whole number of pounds. Any fraction of a pound, if less than a half to be rounded down; if a half or more to be rounded up.
		1979/1980	493.5	
		1980/1981	395.8	
		1981/1982	315.3	
		1982/1983	277.2	
		1983/1984	250.2	
		1984/1985	224.3	
		1985/1986	204.2	
		1986/1987	179.3	
		1987/1988	160.1	
		1988/1989	139.3	
		1989/1990	115.9	
		1990/1991	101.2	
		1991/1992	82.8	
		1992/1993	71.6	
		1993/1994	63.5	
		1994/1995	58.5	
		1995/1996	51.9	
		1996/1997	47.7	
		1997/1998	40.7	
		1998/1999	34.5	
1999/2000	29.1			
2000/2001	21.4			
2001/2002	16.8			
2002/2003	11.9			
2003/2004	8.1			
2004/2005	4.1			
2006/496	6.4.06	1978/1979	595.3	do.
		1979/1980	513.7	
		1980/1981	412.7	
		1981/1982	329.4	
		1982/1983	290.0	
		1983/1984	262.1	
		1984/1985	235.3	
		1985/1986	214.5	
		1986/1987	188.8	
		1987/1988	168.9	
		1988/1989	147.4	
		1989/1990	123.3	
		1990/1991	108.1	
		1991/1992	89.0	
		1992/1993	77.5	
		1993/1994	69.0	
		1994/1995	63.9	
1995/1996	57.0			
1996/1997	52.7			
1997/1998	45.5			
1998/1999	39.1			
1999/2000	33.5			
2000/2001	25.6			
2001/2002	20.7			
2002/2003	15.8			
2003/2004	11.7			
2004/2005	7.6			
2005/2006	3.4			

## REVALUATION OF EARNINGS FACTORS ORDERS

<i>S.I. No.</i> (a)	<i>Coming into Force</i> (b)	<i>Tax Year</i> (c)	<i>Percentage Increases</i> (d)	<i>Rounding of Fractional Amounts</i> (e)
2007/781	6.4.07	1978/1979	623.8	In relation to additional pensions, the increased earnings factor to be expressed as a whole number of pounds. Any fraction of a pound, if less than a half to be rounded down; if a half or more to be rounded up.
		1979/1980	538.8	
		1980/1981	433.7	
		1981/1982	347.0	
		1982/1983	306.0	
		1983/1984	276.9	
		1984/1985	249.0	
		1985/1986	227.4	
		1986/1987	200.7	
		1987/1988	179.9	
		1988/1989	157.5	
		1989/1990	132.4	
		1990/1991	116.6	
		1991/1992	96.7	
		1992/1993	84.7	
		1993/1994	75.9	
		1994/1995	70.7	
		1995/1996	63.5	
		1996/1997	59.0	
		1997/1998	51.4	
		1998/1999	44.8	
		1999/2000	38.9	
		2000/2001	30.7	
		2001/2002	25.7	
		2002/2003	20.5	
		2003/2004	16.3	
		2004/2005	12.1	
		2005/2006	7.6	
		2006/2007	4.1	

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3.15 - 3.16	Supp. 77	3.1029 - 3.1030	Supp. 78	3.1483 - 3.1494	Supp. 77
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## 2006 No. 663

### SOCIAL SECURITY

#### The Social Security (Industrial Injuries) (Dependency) (Permitted Earnings Limits) Order 2006

<i>Made</i> - - - - -	<i>9th March 2006</i>
<i>Laid before Parliament</i>	<i>15th March 2006</i>
<i>Coming into force</i> -	<i>12th April 2006</i>

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by paragraph 4(5) of Schedule 7 to the Social Security Contributions and Benefits Act 1992(a):

#### Citation and commencement

1. This Order may be cited as the Social Security (Industrial Injuries) (Dependency) (Permitted Earnings Limits) Order 2006 and shall come into force on 12th April 2006.

[Regulation 2 amends paragraph 4(4)(a) & (b) of Schedule 7 of SSCB Act 1992.]

Signed by authority of the Secretary of State for Work and Pensions.

9th March 2006

*Stephen C Timms*  
Minister of State,  
Department for Work and Pensions

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(a) 1992 c. 4. Paragraph 4 has been amended by section 254(1) of, and Schedule 24 to, the Civil Partnership Act 2004 (c. 33), section 1(3) of, and Schedule 1 to, the Child Benefit Act 2005 (c. 6) and S.I. 2005/633.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

Where a disablement pension with unemployability supplement is increased in respect of one or more children or qualifying young persons and the beneficiary is one of two persons who are spouses or civil partners residing together or who are living together as husband and wife or civil partners, paragraph 4(4) of Schedule 7 to the Social Security Contributions and Benefits Act 1992 provides that the increase shall not be payable in respect of the first child or qualifying young person if the other person's earnings are £170 a week or more and in respect of further children or qualifying young persons for each complete £22 by which the earnings exceed £170. This Order increases the amounts of £170 and £22 to £175 and £23 respectively.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

**2007 No. 769**

**SOCIAL SECURITY**

**The Social Security (Industrial Injuries) (Dependency) (Permitted Earnings Limits) Order 2007**

<i>Made</i> - - - -	<i>8th March 2007</i>
<i>Laid before Parliament</i>	<i>14th March 2007</i>
<i>Coming into force</i> -	<i>11th April 2007</i>

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by paragraph 4(5) of Schedule 7 to the Social Security Contributions and Benefits Act 1992(a).

**Citation and commencement**

**1.** This Order may be cited as the Social Security (Industrial Injuries) (Dependency) (Permitted Earnings Limit) Order 2007 and shall come into force on 11th April 2007.

[Article 2 amends Sch. 7 of the Social Security Contributions and Benefits Act 1992]

Signed by authority of the Secretary of State for Work and Pensions.

8th March 2007

*James Purnell*  
Minister of State,  
Department for Work and Pensions

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(a) 1992 c. 4. Paragraph 4 has been amended by section 254(1) of, and Schedule 24 to, the Civil Partnership Act 2004 (c. 33), section 1(3) of, and Schedule 1 to, the Child Benefit Act 2005 (c. 6) and S.I. 2006/663.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

Where a disablement pension with unemployability supplement is increased in respect of one or more children or qualifying young persons and the beneficiary is one of two persons who are spouses or civil partners residing together or who are living together as husband and wife or civil partners, paragraph 4(4) of Schedule 7 to the Social Security Contributions and Benefits Act 1992 provides that the increase shall not be payable in respect of the first child or qualifying young person if the other person's earnings are £175 a week or more and in respect of further children or qualifying young persons for each complete £23 by which the earnings exceed £175. This Order increases the amounts of £175 and £23 to £180 and £24 respectively.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

(5) Byssinosis is not prescribed in relation to any person if neither of the following conditions is satisfied, namely:—

- (a) that he was suffering from a loss of faculty as a result of byssinosis on or after the relevant date;
- (b) that he has been employed in employed earner's employment in any occupation mentioned in regulation 2(c) of the old regulation for a period or periods (whether before or after 5th July 1948) amounting in the aggregate to 5 years.

(6) Notwithstanding that a person does not satisfy paragraph (3) infection by leptospira is prescribed in relation to any person if he is or has been either incapable of work or suffering from a loss of faculty as a result of infection by—

- (a) leptospira icterohaemorrhagiae in the case of a person employed in employed earner's employment before 7th January 1980 in any occupation involving work in places which are, or are liable to be, infested by rats, or
- (b) leptospira canicola in the case of a person so employed in any occupation involving work at dog kennels or the care or handling of dogs.

(7) A person who, immediately before the 3rd October 1983, was in receipt of benefit in respect of a disease or injury which was prescribed by virtue of the old regulations, or who makes a claim for benefit in respect of a prescribed disease after 2nd October 1983 where the date of onset of the disease or injury was before 3rd October 1983, shall be treated for the purpose only of determining whether the disease or injury is in relation to him a prescribed disease by virtue of the occupation in which he is or was engaged as if the old regulations were still in force and these regulations had not come into operation, if that would be more favourable to him.

#### **Transitional provisions regarding dates of development and dates of onset**

**44.** Where a claim for benefit has been made before 6th April 1983 or a date of onset is determined which is before 6th April 1983 or a claim for injury benefit is made after 5th April 1983 for a day falling or a period beginning before 6th April 1983, these regulations shall take effect subject to the provisions of Schedule 5.

#### **Revocation**

**45.** The regulations specified in Schedule 6 hereto are hereby revoked to the extent mentioned in the third column of that Schedule.

Signed by authority of the Secretary of State for Social Services.

24th June 1985

*Tony Newton*  
Minister of State,  
Department of Health and Social Security

## SCHEDULE 1

Regulations 2 and 4

## PART I

LIST OF PRESCRIBED DISEASES AND THE OCCUPATIONS FOR WHICH THEY ARE  
PRESCRIBED

<i>Prescribed disease or injury</i>	<i>Occupation</i>
-------------------------------------	-------------------

*Any occupation involving:***A. Conditions due to physical agents**

<sup>1</sup>Words substituted and words omitted from Sch. 1 (Part I), entry A1 and A2 by reg. 6(2) and (3) of S.I. 2000/1588 as from 10.7.00.

▶<sup>1</sup>A1. Leukaemia (other than chronic lymphatic leukaemia) or cancer of the bone, female breast, testis or thyroid.◀

▶<sup>1</sup>Exposure to electro-magnetic radiations (other than radiant heat) or to ionising particles where the dose is sufficient to double the risk of the occurrence of the condition.◀

A2 ▶<sup>1</sup>◀ cataract.

▶<sup>1</sup>Frequent or prolonged exposure to radiation from red-hot or white-hot material.◀

A3. Dysbarism, including decompression sickness, barotrauma and osteonecrosis.

Subjection to compressed or rarefied air or other respirable gases or gaseous mixtures.

<sup>2</sup>Words substituted and omitted from Sch. 1 pt. 1, entries A4-A9 by regs. 2(2)-(6) of S.I. 2007/811 as from 6.4.07.

▶<sup>2</sup>A4. Task-specific focal dystonia.◀

Prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm.

A5. Subcutaneous cellulitis of the hand ▶<sup>2</sup>◀.

Manual labour causing severe or prolonged friction or pressure on the hand.

A6. Bursitis or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee ▶<sup>2</sup>◀.

Manual labour causing severe or prolonged external friction or pressure at or about the knee.

A7. Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow ▶<sup>2</sup>◀.

Manual labour causing severe or prolonged external friction or pressure at or about the elbow.

A8. Traumatic inflammation of the tendons of the hand or forearm, or of the associated tendon sheaths.

Manual labour, or frequent or repeated movements of the hand or wrist.

▶<sup>2</sup>◀

PART I (cont.)

<i>Prescribed disease or injury</i>	<i>Occupation</i>	
	<i>Any occupation involving:</i>	
(c) in the case of a person with less than 4 such fingers, any one of those fingers or, as the case may be, the one remaining finger (vibration white finger).	riveting, caulking, chipping, hammering, fettling or swaging; or (d) the use of hand-held powered percussive drills or hand-held powered percussive hammers in mining, quarrying, demolition, or on roads or footpaths, including road construction; or (e) the holding of material being worked upon by pounding machines in shoe manufacture.	
▶ <sup>1</sup> A12. Carpal tunnel syndrome.	▶ <sup>2</sup> (a) The use, at the time the symptoms first develop, of hand-held powered tools whose internal parts vibrate so as to transmit that vibration to the hand, but excluding those tools which are solely powered by hand; or  (b) repeated palmar flexion and dorsiflexion of the wrist for at least 20 hours per week for a period or periods amounting in aggregate to at least 12 months in the 24 months prior to the onset of symptoms, where “repeated” means once or more often in every 30 seconds.◀◀	<sup>1</sup> Entry for prescribed disease A12 substituted by reg. 5(5) of S.I. 1996/425 as from 24.3.96, subj. to transl. saving in reg. 7 <i>ibid.</i>  <sup>2</sup> Col. 2 of entry for prescribed disease A12 substituted by reg. 2(7) of S.I. 2007/811 as from 6.4.07.
<i>Entry for prescribed disease A12 in force before 24.3.96 is reproduced as follows:–</i>		
A12. Carpal tunnel syndrome.	The use of hand-held vibrating tools.	
▶ <sup>3</sup> A13. Osteoarthritis of the hip	Work in agriculture as a farmer or farm worker for a period of, or periods which amount in aggregate to, 10 years or more.◀	<sup>3</sup> Entry for prescribed disease A13 inserted by reg. 3(2) of S.I. 2005/324 as from 14.3.05.



PART I (*cont.*)

*Prescribed disease or injury*

*Occupation*

*Any occupation involving:*

**B. Conditions due to biological agents**

▶<sup>1</sup>B1. Anthrax.

- (a) Contact with anthrax spores, including contact with animals infected by anthrax; or
- (b) handling, loading, unloading or transport of animals of a type susceptible to infection with anthrax or of the products or residues of such animals.◀

<sup>1</sup>Entry for prescribed disease B1 substituted by reg. 3(3) of S.I. 2005/324 as from 14.3.05.

B2. Glanders.

Contact with equine animals or their carcasses.

B3. Infection by leptospira.

- (a) Work in places which are, or are liable to be, infested by rats, field mice or voles, or other small mammals; or
- (b) work at dog kennels or the care or handling of dogs; or
- (c) contact with bovine animals or their meat products or pigs or their meat products.

▶<sup>2</sup>B4. Ankylostomiasis.

Contact with a source of ankylostomiasis

<sup>2</sup>Entry for prescribed disease B4 substituted by reg. 3(4) of S.I. 2005/324 as from 14.3.05.

B5. Tuberculosis.

Contact with a source of tuberculous infection.

B6. Extrinsic allergic alveolitis (including farmer's lung).

Exposure to moulds or fungal spores or heterologous proteins by reason of employment in:—

- (a) agriculture, horticulture, forestry, cultivation of edible fungi or malt-working; or
- (b) loading or unloading or handling in storage mouldy vegetable matter or edible fungi; or
- (c) caring for or handling birds; or
- (d) handling bagasse ▶<sup>3</sup>or
- (e) work involving exposure to metal working fluid mists.◀

<sup>3</sup>Words inserted in entry for prescribed disease B6 by reg. 2(8) of S.I. 2007/811 as from 6.4.07.

PART I (*cont.*)

<i>Prescribed disease or injury</i>	<i>Occupation</i>
	<i>Any occupation involving:</i>
B7. Infection by organisms of the genus brucella.	Contact with— (a) animals infected by brucella, or their carcasses or parts thereof, or their untreated products; or  (b) laboratory specimens or vaccines of, or containing brucella.
<sup>1</sup> Entry for prescribed disease B8 substituted by reg. 3(5) of S.I. 2005/324 as from 14.3.05.	▶ <sup>1</sup> B8A. Infection by hepatitis A virus. Contact with raw sewage.
	B8B. Infection by hepatitis B or C virus. Contact with (a) human blood or human blood products; or  (b) any other source of hepatitis B or C virus.◀
	B9. Infection by <i>Streptococcus suis</i> . Contact with pigs infected by <i>Streptococcus suis</i> , or with the carcasses, products or residues of pigs so infected.
<sup>2</sup> Prescribed diseases B10 and B11 added by reg. 6(1) of S.I. 1989/1207 as from 9.8.89.	▶ <sup>2</sup> B10. (a) Avian chlamydiosis. Contact with birds infected with chlamydia psittaci, or with the remains or untreated products of such birds.
	B10. (b) Ovine chlamydiosis. Contact with sheep infected with chlamydia psittaci, or with the remains or untreated products of such sheep.
	B11. Q fever. Contact with animals, their remains or their untreated products.◀
<sup>3</sup> Prescribed diseases B12 and B13 added by reg. 2(1) of S.I. 1991/1938 as from 26.9.91.	▶ <sup>3</sup> B12. Orf. Contact with sheep, goats or with the carcasses of sheep or goats.
	B13. Hydatidosis. Contact with dogs.◀
<sup>4</sup> Prescribed diseases B14 and B15 added by reg. 3(6) of S.I. 2005/324 as from 14.3.05.	▶ <sup>4</sup> B14. Lyme disease. Exposure to deer or other mammals of a type liable to harbour ticks harbouring <i>Borrelia</i> bacteria.
	B15. Anaphylaxis. Employment as a healthcare worker having contact with products made with natural rubber latex.◀

*This Statutory Instrument has been made in consequence of a defect in S.I. 2006/586 and is being issued free of charge to all known recipients of that Statutory Instrument.*

## 2006 No. 769

# SOCIAL SECURITY

## The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 2006

<i>Made - - - -</i>	<i>15th March 2006</i>
<i>Laid before Parliament</i>	<i>15th March 2006</i>
<i>Coming into force -</i>	<i>5th April 2006</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 108(2), 122(1) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992(a).

The Secretary of State is satisfied of the matters referred to in section 108(2)(a) and (b) of that Act.

In accordance with sections 171 and 172(2) of the Social Security Administration Act 1992(b), reference has been made to the Industrial Injuries Advisory Council.

### Citation and commencement

1. These Regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 2006 and shall come into force on 5th April 2006.

[Regulation 2 amends regulation 4 of S.I. 2006/586]

Signed by authority of the Secretary of State for Work and Pensions.

15th March 2006

*Margaret Hodge*  
Minister of State,  
Department for Work and Pensions

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(a) 1992 c. 4: Section 122(1) is cited for the definition of “prescribe”. Section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedule 6 to the Tax Credits Act 2002 (c. 21).

(b) 1992 c. 5.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2006 (S.I. 2006/586) (“the Amendment Regulations”), which amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 (S.I. 1985/967) (“the Principal Regulations”). They are made in consequence of a defect in the Amendment Regulations and will be issued free of charge to all known recipients of those Regulations.

Regulation 2 amends the Amendment Regulations so as to correct an error in relation to the transitional provisions. The entirety of regulation 3 of the Amendment Regulations, which amends Schedule 1 to the Principal Regulations, does not apply to claims made before the Amendment Regulations come into force.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

## 2007 No. 811

### SOCIAL SECURITY

#### The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2007

<i>Made</i> - - - -	<i>12th March 2007</i>
<i>Laid before Parliament</i>	<i>16th March 2007</i>
<i>Coming into force</i> -	<i>6th April 2007</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 108(2), 122(1) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992(a).

The Secretary of State is satisfied of the matters referred to in section 108(2)(a) and (b) of that Act.

In accordance with section 172(2) of the Social Security Administration Act 1992(b), reference has been made to the Industrial Injuries Advisory Council.

#### Citation and commencement

1. These Regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2007 and shall come into force on the 6th April 2007.

[Regulation 2 amends Schedule 1 to S.I. 1985/967]

#### Transitional provision

3. Regulation 2 shall not apply to a period of assessment which relates to a claim made before the date on which these Regulations come into force.

Signed by authority of the Secretary of State for Work and Pensions.

12th March 2007

*Jim Murphy*  
Minister of State,  
Department for Work and Pensions

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(a) 1992 c. 4. Section 122(1) is cited for the definition of "prescribe". Section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedule 6 to the Tax Credits Act 2002 (c. 21).

(b) 1992 c. 5.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend Part I of Schedule 1 to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 (S.I.1985/967), which prescribes diseases for which industrial injuries benefit is payable.

Regulation 2(2) amends prescribed disease A4 by replacing “Cramp of the hand or forearm due to repetitive movements” with “Task-specific focal dystonia”.

Regulation 2(3), (4) and (5) amend prescribed diseases A5, A6 and A7 by omitting the references to “beat hand”, “beat knee” and “beat elbow”. These terms are historical descriptions and are not widely used in modern clinical practice.

Regulation 2(6) omits prescribed disease A9, as miner’s nystagmus was a condition caused by poor lighting in mines and no longer occurs.

Regulation 2(7) amends prescribed disease A12 to reflect that symptoms are expected to begin in the job in which hand-held powered tools are used, and to extend the terms of prescription on the basis of activity in the job.

Regulation 2(8) amends prescribed disease B6 by extending the occupations to include work involving exposure to metalworking fluid mists.

Regulation 3 makes transitional provision so that the amendments made to Schedule 1 by Regulation 2 do not apply to claims made before these Regulations come into force.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities and voluntary bodies.

**1982 No. 1489**

**SOCIAL SECURITY**

**The Workmen's Compensation (supplementation)  
Scheme 1982**

<i>Made - - - -</i>	<i>19th October 1982</i>
<i>Laid before Parliament</i>	<i>29th October 1982</i>
<i>Coming into Operation</i>	<i>19th November 1982</i>

**ARRANGEMENT OF ARTICLES**

PART I

*General*

1. Citation, commencement and interpretation

PART II

*Allowances*

2. Basic allowances under scheme
3. Partial incapacity to be treated as total in certain circumstances
4. Major incapacity allowances under scheme
5. Lesser incapacity allowances under scheme
6. Amount of workmen's compensation
7. Computation of loss of earnings
8. Corresponding payments under Northern Ireland legislation
9. Allowances payable to beneficiaries who have ceased to be ordinarily resident in the United Kingdom
10. Allowances in respect of 1 or more different injuries or disease

PART III

*Administration of the Scheme and Determination of Questions*

11. Administration of the scheme
12. Determination of claims and applications for revision and supersession arising under the scheme

**WORKMEN'S COMPENSATION (SUPPLEMENTATION)  
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## PART IV

*Medical Board*

13. Reference for report to a medical practitioner
14. Provision of a report by a medical practitioner
15. Radiographic examination

## PART V

*Claims and Payments*

16. Information to be given when making a claim or obtaining payment of allowance
17. Obligation of claimants and of person in receipt of allowances to undergo medical examination
18. Sums not payable when delay in claiming
19. Obligation of beneficiaries to notify change of circumstances
20. Allowances to be inalienable
21. Forfeiture of allowances
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## PART VI

*Recovery and Adjustment of Allowances*

23. Recovery of sums by deduction from allowances or benefits under the Social Security Act
24. Adjustment of allowances

## PART VII

*Transitional Provisions*

25. Finality of decisions of the Board
26. Review of decisions of the Board
27. Claims in respect of periods before commencement of the scheme
28. Conditions for allowance satisfied by previous awards
29. Preservation of entitlement to larger amount of allowances
30. Final calculations not made by 25th November 1981
31. Claims not made before 25th November 1981
32. Claims made but not determined before 25th November 1981
33. Review

**Major incapacity allowances under scheme**

4.—(1) Subject to the following provisions of this scheme, a major incapacity allowance shall be payable out of ►<sup>1</sup>money provided by Parliament◄ to a person who is or has since 5th July 1956 been entitled to weekly payments by way of workmen's compensation—

<sup>1</sup>Words substituted in art. 4(1) by art. 2(2)(a) of S.I. 1990/2538 as from 9.1.91.

- (a) in respect of any injury or disease other than pneumoconiosis or byssinosis if he is as a result of that injury or disease totally incapable of work and likely to remain so for a considerable period; or
- (b) in respect of pneumoconiosis if he is certified under a compensation scheme or is determined in accordance with article 14 of this scheme, to be totally disabled; or
- (c) in respect of byssinosis; or
- (d) in respect of 2 or more injuries or diseases such as are mentioned in the 3 foregoing sub-paragraphs, if he is as the joint result of those injuries or diseases totally incapable of work and likely to remain so for a considerable period;

so long as he is ordinarily resident in the United Kingdom.

(2) The weekly rate of a major incapacity allowance payable to a person shall be the corresponding disablement pension rate ►<sup>2</sup>◄.

*[Article 4(2), in the unamended form set out in square brackets below, continues to apply to people who before 6.4.87 had retired or were treated as retired (art. 2(2) of S.I. 1987/419).]*

*[(2)The weekly rate of a major incapacity allowance payable to a person shall be the corresponding disablement pension rate less the amount of any workmen's compensation and less the amount of any basic allowance payable to him for that week.]*

<sup>2</sup>Words deleted from art. 4(2) by art. 2(1)(a) of S.I. 1987/419 as from 6.4.87, subject to saving for persons retired since before 6.4.87 (art. 2(2) *ibid.*).

(3) For the purposes of this article an allowance payable by virtue of any scheme under the 1951 Act in force immediately before 1st March 1966 shall be treated as a weekly payment by way of workmen's compensation.

**Lesser incapacity allowances under scheme**

5.—(1) Subject to the following provisions of this scheme, a lesser incapacity allowance shall be payable out of ►<sup>3</sup>money provided by Parliament◄ to a person, not being a person entitled to a major incapacity allowance, who was immediately before 1st March 1966 receiving an allowance payable by virtue of a scheme under the 1951 Act in force at that time, or who is or has since the commencement of the 1965 Act been entitled or may be expected to be entitled to a basic allowance or to weekly payments by way of workmen's compensation, other than notional payments, for any period during which he is either totally or partially incapable of work as a result of the relevant injury or disease, and is ordinarily resident in the United Kingdom.

<sup>3</sup>Words substituted in art. 5(1) by art. 2(2)(a) of S.I. 1990/2538 as from 9.1.91.

(2) In any case where the lesser incapacity allowance awarded to a beneficiary was, immediately before ►<sup>4</sup>11th April 2007◄, of an amount which is shown in the first column of Part I of Schedule 1 hereto, the rate of lesser incapacity allowance thereafter shall be the corresponding amount set out in the second column thereof.

<sup>4</sup>Date substituted in Art. 5(2) by Art. 2 of S.I. 2007/804 as from 11.4.07.

(3) In a case to which article 5(2) of this scheme does not apply and subject to the provisions of the next succeeding paragraph, the weekly rate of a lesser incapacity allowance payable to a person shall be determined by reference to the loss of earnings (ascertained in accordance with the provisions of article 7 (suffered by that person due to the relevant injury or disease; and where the loss of earnings, ascertained as aforesaid, is of an amount shown in the first column of Part II of Schedule 1 hereto, shall be the rate opposite thereto in the second column of that Part and where such loss of earnings is of an amount (not less than 5 pence) not so shown, shall be the rate in the said column opposite to the next larger amount which is so shown.

(4) For the purposes of this article:—

- (a) where the loss of earnings, ascertained as aforesaid, is in excess of the largest amount shown in the said first column, the weekly rate of lesser incapacity allowance shall be the rate in the second column opposite to such largest amount;
- (b) the weekly rate of lesser incapacity allowance payable to any person shall be reduced by the amount of any workmen's compensation payable to him for that week in excess of £2.00.

(5) In this article the expression "notional payment" means a payment by way of workmen's compensation awarded or paid for the purpose of safeguarding a potential entitlement to compensation and not related to any existing loss of earnings.

(6) For the purpose of this article a weekly payment by way of workmen's compensation made to a person shall be deemed to be a notional payment if—

- (a) the amount of such weekly payment is less than 2½ pence; or
- (b) during the period of 12 months immediately preceding 30th November 1965 either—
  - (i) no weekly payments by way of such compensation were made to that person; or
  - (ii) any such weekly payments made to him were of an amount less than 2½ pence;

unless that person proves that such weekly payment is not a notional payment.

#### Amount of workmen's compensation

6.—(1) Subject to the following provisions of this article, any reference in articles 2 <sup>1</sup> and 5 to the amount of a person's workmen's compensation shall be taken as referring to the amount (if any) of the weekly payments to which for the time being he is, or would but for the determination of his right be, entitled in respect of the relevant injury or disease.

(2) For the purposes of paragraph (1) of this article:—

- (a) where in fixing the amount of those weekly payments under the provisions relating thereto regard was had to any payment, allowance or benefit which he might receive during the period of this incapacity from the person liable for the compensation and the amount is shown to have been reduced in consequence, the amount of those weekly payments shall for the purposes of this article be taken to be the reduced amount so fixed with the addition of the amount of the reduction;
- (b) where the amount to those weekly payments has not been fixed under the provisions relating thereto, it shall be fixed for the purpose of this article without regard to any such payment, allowance or benefit as aforesaid;
- (c) where an allowance or allowances under this scheme would, apart from the provisions of this sub-paragraph, be payable or be payable at a higher rate by reason of the amount of those weekly payments, fixed under the provisions relating thereto, not being the amount which ought reasonable and properly to be so fixed, the amount of those weekly payments shall, for the purposes of this article, be taken to be such as ought reasonable and properly to be so fixed, having regard to the rules for calculating such weekly payments under the provisions relating to his workmen's compensation.

<sup>1</sup>Ref. in art. 6(1) to art. 4 deleted by art. 2(1)(b) of S.I. 1987/419 as from 6.4.97, subject to saving for persons retired since before 6.4.87 (art. 2(2) *ibid.*).

**Breach of requirements of scheme**

**37.** If any person contravenes or fails to comply with any requirement of article 16 or 19 of this scheme he shall for such offence be liable on summary conviction to a penalty not exceeding £10.

**Service by post**

**38.** Any notice or other document required or authorised to be given or sent to any person under the provisions of this scheme may be sent by post to that person at his ordinary or last known address.

**Revocation of earlier schemes**

**39.** The schemes specified in column 1 of Schedule 3 hereto are, subject to the transitional provisions contained in Part VII of this scheme, hereby revoked to the extent mentioned in column 3; and nothing in the said Part VII shall be taken as restricting the general application of sections 16 and 17 of the Interpretation Act 1978(a) with regard to the effect of these revocations.

Signed by authority of the Secretary of State for Social Services.

1st October 1982

*Hugh Rossi*  
Minister of State,  
Department of Health and Social Security

We consent.

19th October 1982

*Robert Boscawen*  
*J.A. Cope*  
Two of the Lords Commissioners of Her Majesty's Treasury

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(a) 1978 c. 30.

## Sch. 1

<sup>1</sup>Sch. 1 substituted by  
art. 3 of S.I. 2007/804  
as from 11.4.07.

►<sup>1</sup>SCHEDULE 1

Article 5

## PART 1

TABLE OF RATES OF LESSER INCAPACITY ALLOWANCE FOR BENEFICIARIES TO  
WHOM ARTICLE 5(2) APPLIES

<i>Rate of lesser incapacity allowance from 12th April 2006 to 10th April 2007</i>	<i>Rate of lesser incapacity allowance from 11th April 2007</i>
£	£
3.90	4.05
10.50	10.90
17.70	18.35
25.70	26.60
36.90	38.20
46.95	48.65

## PART 2

TABLE OF LOSS OF EARNINGS AND CORRESPONDING RATES OF LESSER INCAPACITY  
ALLOWANCE

<i>Loss of Earnings</i>	<i>Rate of lesser incapacity allowance</i>
£	£
13.20	4.05
28.90	10.90
44.75	18.35
52.85	26.60
64.50	38.20
Over 64.50	48.65 ◀

## 2006 No. 738

### SOCIAL SECURITY

#### The Workmen's Compensation (Supplementation) (Amendment Scheme) 2006

<i>Made</i> - - - -	<i>13th March 2006</i>
<i>Laid before Parliament</i>	<i>20th March 2006</i>
<i>Coming into force</i> -	<i>12th April 2006</i>

The Secretary of State for Work and Pensions makes the following Scheme, with the consent of the Treasury, in exercise of the powers conferred by paragraph 2 of Schedule 8 to the Social Security Contributions and Benefits Act 1992(a) and paragraph 1 of Schedule 9 to the Social Security Administration Act 1992(b):

#### Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Workmen's Compensation (Supplementation) (Amendment) Scheme 2006 and shall come into force on 12th April 2006.

(2) In this Scheme—

“lesser incapacity allowance” means the allowance payable in accordance with article 5 of the principal Scheme;

“the operative date” means 12th April 2006; and

“the principal Scheme” means the Workmen's Compensation (Supplementation) Scheme 1982(c).

[Regulations 2 & 3 amend Article 5(2) and Schedule 1 of S.I. 1982/1489.]

#### Transitional provision

4.—(1) Where—

- (a) a beneficiary was, before the operative date, in receipt of lesser incapacity allowance; and
- (b) the final calculation of loss of earnings required by article 7(2) of the principal Scheme had not been made in respect of him by that date,

the beneficiary shall be treated as entitled, from the operative date, to an allowance at the same rate as if the final calculation had been made before that date.

(2) Where—

- (a) a claim for lesser incapacity allowance either—
  - (i) was not made before the operative date and the allowance is awarded for a period beginning on or after the operative date at one of the rates

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(a) 1992 c. 4; paragraph 2(6)(c) of Schedule 8 was amended by S.I. 2006/645.

(b) 1992 c. 5; paragraph 1(6) of Schedule 9 was amended by paragraph 115 of Schedule 7 to the Social Security Act 1998 (c. 14).

(c) S.I. 1982/1489; relevant amending instruments are S.I. 1990/2538 and 2005/832.

**WORKMEN'S COMPENSATION (SUPPLEMENTATION)  
(AMENDMENT) SCHEME 2006**

shown in the second column of Part 2 of Schedule 1 to the principal Scheme (as amended by this Scheme); or

- (ii) was made but not determined before the operative date; and
- (b) such allowance is found to be payable in respect of a period before the operative date,

the rate payable in respect of the period before the operative date shall be that which would have been payable had the amendment to the principal Scheme effected by article 3 of this Scheme not been made.

(3) Where a lesser incapacity allowance has been awarded before the operative date and a question arises as to the weekly rate payable in consequence of this Scheme, the case shall be reconsidered in the light of the amendments made by, and transitional provisions contained in, this Scheme and the allowance shall continue to be payable at the weekly rate specified in the award until the question has been determined in accordance with the provisions of the principal Scheme.

Signed by authority of the Secretary of State for Work and Pensions.

9th March 2006

*Stephen C Timms*  
Minister of State,  
Department for Work and Pensions

We consent,

13th March 2006

*Vernon Coaker*  
*Tom Watson*  
Two of the Lords Commissioners of Her Majesty's Treasury

**EXPLANATORY NOTE**

*(This note is not part of the Scheme)*

This Scheme amends the Workmen's Compensation (Supplementation) Scheme 1982 (S.I. 1982/1489) by making adjustments to the rate of lesser incapacity allowance, such adjustments being consequential upon the increase in the maximum rate of that allowance made by the Social Security Benefits Up-rating Order 2006 (S.I. 2006/645). The Scheme also makes transitional provision.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

**2007 804.**

**SOCIAL SECURITY**

**The Workmen's Compensation (Supplementation)  
(Amendment) Scheme 2007**

<i>Made - - - -</i>	<i>12th March 2007</i>
<i>Laid before Parliament</i>	<i>19th March 2007</i>
<i>Coming into force -</i>	<i>11th April 2007</i>

The Secretary of State for Work and Pensions makes the following Scheme, with the consent of Treasury, in exercise of the powers conferred by paragraph 2 of Schedule 8 to the Social Security Contributions and Benefits Act 1992(a) and paragraph 1 of Schedule 9 to the Social Security Administration Act 1992(b).

**Citation, commencement and interpretation**

1.—(1) This Scheme may be cited as the Workmen's Compensation (Supplementation) (Amendment) Scheme 2007 and shall come into force on 11th April 2007.

(2) In this Scheme—

“lesser incapacity allowance” means the allowance payable in accordance with article 5 of the principal Scheme;

“the operative date” means 11th April 2007; and

“the principal Scheme” means the Workmen's Compensation (Supplementation) Scheme 1982(c).

[Article 2 amends article 5 of S.I. 1982/1489]

[Article 3 amends Schedule 1 of S.I. 1982/1489]

**Transitional provision**

4.—(1) Where a beneficiary was, before the operative date, in receipt of lesser incapacity allowance and the final calculation of loss of earnings required by article 7(2) of the principal Scheme had not been made in respect of him by that date, the beneficiary is treated as entitled, from that date, to an allowance at the same rate as if the final calculation had been made before that date.

(2) This paragraph applies to a case where lesser incapacity allowance is payable in respect of a period before the operative date and the claim for the allowance was either—

- (a) not made before the operative date and the allowance is awarded for a period beginning on or after that date at one of the rates shown in the second column of Part 2 of Schedule 1 to the principal Scheme (as amended by this Scheme);
- or

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(a) 1992 c. 4. Paragraph 2(6)(c) of Schedule 8 was amended by S.I. 2007/688.

(b) 1992 c. 5. Paragraph 1(6) of Schedule 9 was amended by paragraph 115 of Schedule 7 to the Social Security Act 1998 (c. 14).

(c) S.I. 1982/1489; relevant amending instruments are S.I. 1990/2538 and 2006/738.

**WORKMEN'S COMPENSATION (SUPPLEMENTATION)  
(AMENDMENT) SCHEME 2007**

(b) made but not determined before the operative date.

(3) In a case to which paragraph (2) applies, the rate payable in respect of the period before the operative date is that which would have been payable had the amendment to the principal Scheme made by article 3 of this Scheme not been made.

(4) Where a lesser incapacity allowance has been awarded before the operative date and a question arises as to the weekly rate payable in consequence of this Scheme—

(a) the case shall be reconsidered in the light of the amendments made by, and transitional provisions contained in, this Scheme; and

(b) the allowance continues to be payable at the weekly rate specified in the award until the question has been determined in accordance with the provisions of the principal Scheme.

Signed by authority of the Secretary of State for Work and Pensions.

8th March 2007

*James Purnell*  
Minister of State,  
Department for Work and Pensions

We consent,

12th March 2007

*Frank Roy*  
*Dave Watts*  
Two of the Lords Commissioners of Her Majesty's Treasury

**EXPLANATORY NOTE**

*(This note is not part of the Scheme)*

This Scheme amends the Workmen's Compensation (Supplementation) Scheme 1982 (S.I. 1982/1489) by making adjustments to the rate of lesser incapacity allowance, such adjustments being consequential upon the increase in the maximum rate of that allowance made by the Social Security Benefits Up-rating Order 2007 (S.I.2007/688). The Scheme also makes transitional provision.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

SI 2007/804

**WORKMEN'S COMPENSATION (SUPPLEMENTATION)  
(AMENDMENT) SCHEME 2007**

Meaning of “earnings”

20.—(1) ▶<sup>1</sup>◀

▶<sup>2</sup>(2) For the purposes of section 171(4) of the Contributions and Benefits Act, the expression “earnings” refers to gross earnings and includes any remuneration or profit derived from a woman’s employment except any payment or amount which is—

- (a) excluded ▶<sup>3</sup>or disregarded in the calculation of a person’s earnings under regulation 25, 27 or 123 of, or Schedule 3 to the Social Security (Contributions) Regulations 2001◀ (payments to be disregarded and payments to directors to be disregarded respectively) ▶<sup>4</sup>(or would have been so excluded had she not been under the age of 16)◀;
- (b) a chargeable emolument under section 10A of the Social Security Contributions and Benefits Acts 1992, except where, in consequence of such a chargeable emolument being excluded from earnings, a woman would not be entitled to statutory maternity pay ▶<sup>4</sup>(or where such a payment or amount would have been so excluded and in consequence she would not have been entitled to statutory maternity pay had she not been under the age of 16◀◀

(3) ▶<sup>5</sup>◀

(4) For the purposes of ▶<sup>6</sup>section 171(4) of the Contributions and Benefits Act◀ the expression “earnings” includes also—

▶<sup>3</sup>(ZA) any amount retrospectively treated as earnings by regulations made by virtue of section 4B(2) of the Contributions and Benefits Act;◀

- (a) any sum payable in respect of arrears of pay in pursuance of an order for reinstatement or re-engagement under the 1978 Act;
- (b) any sum payable by way of pay in pursuance of an order under the 1978 Act for the continuation of a contract of employment;
- (c) any sum payable by way of remuneration in pursuance of a protective award under the Employment Protection Act 1975(a);
- (d) any sum payable by way of statutory sick pay, including sums payable in accordance with regulations made under section 1(5) of the Social Security and Housing Benefits Act 1982(b)
- ▶<sup>6</sup>(e) any sum payable by way of statutory maternity pay, including sums payable in accordance with regulations made under section 164(9)(b) of the Contributions and Benefits Act(c);
- (f) any sum payable by way of statutory paternity pay, including sums payable in accordance with regulations made under section 171ZD(3) of the Contributions and Benefits Act(d);
- (g) any sum payable by way of statutory adoption pay, including sums payable in accordance with regulations made under section 171ZM(3) of the Contributions and Benefits Act(e).◀

(5)–(6) ▶<sup>5</sup>◀

Normal weekly earnings

21.—(1) For the purposes of ▶<sup>7</sup>Part XII of the Contributions and Benefits Act◀, a woman’s normal weekly earnings shall be calculated in accordance with the following provisions of this regulation.

(2) In this regulation—

“the appropriate date” means the first day of the 14th week before the expected week of confinement, or the first day in the week in which the woman is confined, whichever is the earlier, ▶<sup>8</sup>◀;

- (a) 1975 c. 71.
- (b) 1982 c. 24, as amended by the Social Security Act 1986 (c. 50), section 68.
- (c) Section 164(9)(b) was amended by paragraph 12(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (d) Section 171ZD was inserted by section 2 of the Employment Act 2002.
- (e) Section 171ZM was inserted by section 4 of the Employment Act 2002.

<sup>1</sup>Reg. 20(1) deleted by reg. 13(2) of S.I. 1992/2595 as from 16.11.92.

<sup>2</sup>Reg. 20 (2) substituted by reg. 12 of S.I. 1999/567 as from 6.4.99.

<sup>3</sup>Words substituted in reg. 20(2)(a) and sub-para. (za) inserted in reg. 20(4) by reg. 4(2) & (3) of S.I. 2007/1154 as from 6.4.07.

<sup>4</sup>Words inserted in reg. 20(2)(a) & (b) by para. 54(2) & (3) of part 2 to Sch. 2 of S.I. 2006/1031 as from 1.10.06.

<sup>5</sup>Reg. 20(3), (5) and (6) deleted by reg.13(4) of S.I. 1992/2595 as from 16.11.92.

<sup>6</sup>Words in reg. 20(4) substituted and sub-paras. (e)-(g) inserted in reg. 20(4) by reg. 5(a) & (b) of S.I. 2002/2690 as from 8.12.02.

<sup>7</sup>Words in reg. 21(1) substituted by reg. 5(2) of S.I. 1994/1367 as from 11.6.94.

<sup>8</sup>Words deleted from defn. of “the appropriate date” in reg. 21(2) by reg. 5(3) of S.I. 1994/1367, under powers effective where expected week of confinement begins on or after 16.10.94.

## Regs. 21-21B

“normal pay day” means a day on which the terms of a woman’s contract of service require her to be paid, or the practice in her employment is for her to be paid, if any payment is due to her; and

“day of payment” means a day on which the woman was paid.

<sup>1</sup>Words in reg. 21(3) substituted by reg. 5(4) of S.I. 1994/1367 as from 11.6.94.

(3) Subject to paragraph (4), the relevant period for the purposes of <sup>1</sup>section 171(4) of the Contributions and Benefits Act<sup>◀</sup> is the period between—

- (a) the last normal pay day to fall before the appropriate date; and
- (b) the last normal pay day to fall at least 8 weeks earlier than the normal pay day mentioned in sub-paragraph (a).

including the normal pay day mentioned in sub-paragraph (a) but excluding that first mentioned in sub-paragraph (b).

(4) In a case where a woman has no identifiable normal pay day, paragraph (3) shall have effect as if the words “day of payment” were substituted for the words “normal pay day” in each place where they occur.

(5) In a case where a woman has normal pay days at intervals of or approximating to one or more calendar months (including intervals of or approximating to a year) her normal weekly earnings shall be calculated by dividing her earnings in the relevant period by the number of calendar months in that period (or, if it is not a whole number, the nearest whole number), multiplying the result by 12 and dividing by 52.

(6) In a case to which paragraph (5) does not apply and the relevant period is not an exact number of weeks, the woman’s normal weekly earnings shall be calculated by dividing her earnings in the relevant period by the number of days in the relevant period and multiplying the result by 7.

<sup>2</sup>Reg. 21(7) substituted by reg. 3 of S.I. 2005/729 as from 6.4.05.

►<sup>2</sup>(7) In any case where—

- (a) a woman is awarded a pay increase (or would have been awarded such an increase had she not then been absent on statutory maternity leave); and
- (b) that pay increase applies to the whole or any part of the period between the beginning of the relevant period and the end of her period of statutory maternity leave,

her normal weekly earnings shall be calculated as if such an increase applied in each week of the relevant period.◀

<sup>3</sup>Reg. 21A revoked by reg. 6 of S.I. 2002/2690 as from 24.11.02.

**21A.**►<sup>3</sup>◀

<sup>4</sup>Reg. 21B substituted by reg. 4 of S.I. 2005/729 as from 6.4.05.

►<sup>4</sup>**Effect of maternity allowance on statutory maternity pay**

**21B.** Where a woman, in any week which falls within the maternity pay period, is—

- (a) in receipt of maternity allowance pursuant to the provisions of sections 35 and 35A of the Contributions and Benefits Act<sup>(a)</sup>◀; and
- (b) entitled to receive statutory maternity pay in consequence of
  - <sup>5</sup>(i) receiving a pay increase referred to in regulation 21(7), or
  - (ii) being treated as having been paid retrospective earnings under regulation 20(4)(za),◀

<sup>5</sup>Words in reg. 21B(b) substituted by reg. 4(4) of S.I. 2007/1154 as from 6.4.07.

the employer shall not be liable to make payments of statutory maternity pay in respect of such a week unless, and to the extent by which, the rate of statutory maternity pay<sup>(b)</sup> exceeds the rate of maternity allowance<sup>(c)</sup> received by her in that week.◀

(a) Section 35(1) was substituted by the Welfare Reform and Pensions Act 1999 (c. 30), section 53(1). Section 35(3)(c) was added by regulation 2(3) of S.I. 1994/1230. Section 35(3)(c) was further amended, and section 35(6A) to (6D) inserted, by the Employment Act 2002, Schedule 7, paragraph (4)(3) and (4) respectively. Section 35(6)(b) was amended by the Still-Birth (Definition) Act 1992 (c. 29), section 2(1)(a). Section 35A was inserted by the Welfare Reform and Pensions Act 1999, section 53(3) and further amended by the Employment Act 2002, section 48(1) and Schedule 7, paragraph 5.

(b) See the Social Security Contributions and Benefits Act 1992, section 166(1) and (2) which was substituted by the Employment Act 2002, section 19.

(c) See the Social Security Contributions and Benefits Act 1992, section 35A(1).

**Reg. 17**

- (a) excluded <sup>1</sup>or disregarded in the calculation of a person's earnings under regulation 25, 27 or 123 of, or Schedule 3 to, the Social Security (Contributions) Regulations 2001 <sup>2</sup>(or would have been so excluded had he not been under the age of 16);
- (b) a chargeable emolument under section 10A of the Social Security Contributions and Benefits Act 1992, except where, in consequence of such a chargeable emolument being excluded from earnings, a person would not be entitled to statutory sick pay <sup>2</sup>(or where such a payment or amount would have been so excluded and in consequence he would not have been entitled to statutory sick pay had he not been under the age of 16)

<sup>1</sup>Words substituted in reg. 17(2)(a) & sub-para. (za) added to reg. 17(3) by reg. 5(2) & (3) of S.I. 2007/1154 as from 6.4.07.

<sup>2</sup>Words inserted in reg. 17(2)(a) & (b) by para. 50 of part 2 to Sch. 2 of S.I. 2006/1031 as from 1.10.06.

(2A) <sup>3</sup>

<sup>3</sup>Reg. 17(2A) deleted by reg. 15(4) of S.I. 1992/2595 as from 16.11.92

(3) For the purposes of <sup>4</sup>section 163(2) of the Contributions and Benefits Act the expression "earnings" includes also—

<sup>4</sup>Words in reg. 17(3) substituted by reg. 14(a) of S.I. 2002/2690 as from 24.11.02.

<sup>1</sup>(za) any amount retrospectively treated as earnings by regulations made by virtue of section 4B(2) of the Contributions and Benefits Act;

- (a) any sum payable by way of maternity pay or payable by the Secretary of State in pursuance of section 40 of the Employment Protection (Consolidation) Act 1978(a) in respect of maternity pay;
- (b) any sum which is payable by the Secretary of State by virtue of section 122(3)(a) of that Act in respect of arrears of pay and which by virtue of section 42(1) of that Act is to go towards discharging a liability to pay maternity pay;
- (c) any sum payable in respect of arrears of pay in pursuance of an order for reinstatement or re-engagement under that Act;
- (d) any sum payable by way of pay in pursuance of an order under that Act for the continuation of a contract of employment;
- (e) any sum payable by way of remuneration in pursuance of a protective award under the Employment Protection Act 1975(b);
- (f) Any sum payable to any employee under the Temporary Short-time Working compensation Scheme administered under powers conferred by the Employment Subsidies Act 1978(c);
- (g) any sum paid in satisfaction of any entitlement to statutory sick pay;
- <sup>5</sup>(h) any sum payable by way of statutory maternity pay under Part V of the Social Security Act 1986, including sums payable in accordance with regulations made under section 46(8)(b) of that Act.
- <sup>6</sup>(i) any sum payable by way of statutory paternity pay, including any sums payable in accordance with regulations made under section 171ZD(3) of the Contributions and Benefits Act (d);
- (j) any sum payable by way of statutory adoption pay, including any sums payable in accordance with regulations made under section 171ZM(3) of the Contributions and Benefits Act (e).

<sup>5</sup>Sub-para. (h) added by reg. 4(b) of S.I. 1987/868 as from 7.6.87.

<sup>6</sup>Sub-paras. (i) & (j) inserted in reg. 17(3) by reg. 14(b) of S.I. 2002/2690 as from 8.12.02.

(4)–(5) <sup>7</sup>

<sup>7</sup>Reg. 17 (4) and (5) deleted by reg. 15(4) of S.I. 1992/2595 as from 16.11.92.

(a) 1978 c. 44.

(b) 1975 c. 71.

(c) 1978 c. 6.

(d) Section 171ZD was inserted by section 2 of the Employment Act 2002.

(e) Section 171ZM was inserted by section 4 of the Employment Act 2002.

**Payments to be treated or not to be treated as contractual remuneration**

**18.** For the purposes of paragraph 2(1) and (2) of Schedule 2 to the Act, those things which are included within the expression “earnings” by regulation 17 (except paragraph (3)(g) thereof) shall be, and those things which are excluded from that expression by that regulation shall not be, treated as contractual remuneration.

**Normal weekly earnings**

**19.—(1)** For the purposes of section 26(2) and (4), an employee’s normal weekly earnings shall be determined in accordance with the provisions of this regulation.

(2) In this regulation

“the critical date” means the first day of the period of entitlement in relation to which a person’s normal weekly earnings fall to be determined, or, in a case to which paragraph 2(c) of Schedule 1 applies, the relevant date within the meaning of Schedule 1;

“normal pay day” means a day on which the terms of an employee’s contract of service require him to be paid, or the practice in his employment is for him to be paid, if any payment is due to him; and

“day of payment” means a day on which the employee was paid.

(3) Subject to paragraph (4), the relevant period (referred to in section 26(2)) is the period between—

- (a) the last normal pay day to fall before the critical date; and
- (b) the last normal pay day to fall at least 8 weeks earlier than the normal pay day mentioned in sub-paragraph (a).

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