



# National Insurance Contributions Act 2008

## 2008 CHAPTER 16

An Act to make provision in connection with the upper earnings limit for national insurance contributions (including in particular provision about the upper accrual point).  
9 [21st July 2008]

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:—

### **1 Amount to be specified as upper earnings limit: Great Britain**

- (1) In section 5 of the Social Security Contributions and Benefits Act 1992 (c. 4) (earnings limits and thresholds for Class 1 contributions)—
  - (a) in subsection (1), omit the words from “which” to the end, and
  - (b) omit subsection (3) (amount to be specified as upper earnings limit).
- (2) In section 176(1) of that Act (statutory instruments subject to the affirmative procedure), after paragraph (za) insert—

“(zb) regulations under section 5 specifying the upper earnings limit;”.
- (3) The amendments made by subsections (1)(b) and (2) have effect in relation to regulations specifying the upper earnings limit for 2009-10 or any subsequent tax year.

### **2 Amount to be specified as upper earnings limit: Northern Ireland**

- (1) In section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (earnings limits and thresholds for Class 1 contributions)—
  - (a) in subsection (1), omit the words from “which” to the end, and
  - (b) omit subsection (3) (amount to be specified as upper earnings limit).
- (2) In section 172 of that Act (control of regulations and orders), after subsection (11ZA) insert—

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“(11ZB) A statutory instrument containing (whether alone or with other provisions) regulations under section 5 specifying the upper earnings limit shall not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.”

- (3) The amendments made by subsections (1)(b) and (2) have effect in relation to regulations specifying the upper earnings limit for 2009-10 or any subsequent tax year.

### **3 Additional pension: upper accrual point to replace upper earnings limit from 2009-10**

- (1) The Social Security Contributions and Benefits Act 1992 (c. 4) is amended as follows.
- (2) In section 22(2B) (earnings factors), for “the flat rate introduction year” (in both places) substitute “2009-10”.
- (3) In section 44(7)(c) (category A retirement pension), for “the flat rate introduction year” (in both places) substitute “2009-10”.
- (4) In section 122 (interpretation)—
- (a) in subsection (1), for the definition of “the upper accrual point” substitute—
- ““the upper accrual point” is £770;”,
- (b) after subsection (6) insert—
- “(6A) The Treasury may by regulations prescribe an equivalent of the upper accrual point in relation to earners paid otherwise than weekly (and references in this or any other Act to “the prescribed equivalent”, in the context of the upper accrual point, are to the equivalent prescribed under this subsection in relation to such earners).
- (6B) The power conferred by subsection (6A) includes power to prescribe an amount which exceeds by not more than £1 the amount which is the arithmetical equivalent of the upper accrual point.”, and
- (c) omit subsections (7) and (8).

### **4 Consequential amendments and repeals**

- (1) Schedule 1 contains consequential amendments.
- (2) Schedule 2 contains repeals.

### **5 Extent**

- (1) Sections 1 and 3 extend only to England and Wales and Scotland.
- (2) Section 2 extends only to Northern Ireland.
- (3) Sections 4, 6 and 7 and this section extend to each part of the United Kingdom.
- (4) But an amendment or repeal contained in either Schedule has the same extent as the provision amended or repealed.

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## **6 Commencement**

- (1) Subject to subsection (2), this Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (2) Sub-paragraph (3) of paragraph 6 of Schedule 1, and Schedule 2 so far as relating to the repeals mentioned in that sub-paragraph, come into force on the day appointed by an order under section 30(2) of the Pensions Act 2007 (c. 22) for the coming into force of paragraph 45(2) of Schedule 4 to that Act.

## **7 Short title**

This Act may be cited as the National Insurance Contributions Act 2008.

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## SCHEDULES

### SCHEDULE 1

Section 4

#### CONSEQUENTIAL AMENDMENTS

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

- 1 The Social Security Contributions and Benefits Act 1992 is amended as follows.
- 2 In section 22 (earnings factors), after subsection (8) insert—
- “(9) References in this Act or any other Act to earnings factors derived from so much of a person's earnings as do not exceed the upper accrual point or the upper earnings limit are to be read, in relation to earners paid otherwise than weekly, as references to earnings factors derived from so much of those earnings as do not exceed the prescribed equivalent.”
- 3 (1) Section 23 is amended as follows.
- (2) In subsection (3)(a), for “subsection” substitute “ subsections (3A) and ”.
- (3) After subsection (3) insert—
- “(3A) For the purposes specified in section 22(2)(b) (additional pension), subsection (3)(a) has effect in relation to 2009-10 and subsequent tax years as if the reference to the upper earnings limit were to the upper accrual point.”
- 4 (1) Section 44A (deemed earnings factors) is amended as follows.
- (2) In subsection (1)(a), for “the upper earnings limit” substitute “ the applicable limit ”.
- (3) After subsection (5) insert—
- “(5A) In subsection (1)(a) “the applicable limit” has the same meaning as in section 44.”
- 5 In section 44B(2)(a) (deemed earnings factors: 2010-11 onwards), for “the applicable limit” substitute “ the upper accrual point ”.
- 6 (1) Paragraph 1 of Schedule 1 (Class 1 contributions where earner employed in more than one employment) is amended as follows.
- (2) In sub-paragraph (3) (as it has effect without the amendments made by paragraph 45(2) of Schedule 4 to the Pensions Act 2007 (c. 22))—
- (a) in paragraph (b), for “the current upper earnings limit” (in both places) substitute “ the upper accrual point ”,
- (b) after that paragraph insert—
- “(ba) if paragraph (b) applies, the amount obtained by applying the main primary percentage referred to in paragraph (d) to such part of the aggregated earnings attributable to COMPS service as, when added to the APPS earnings (if any),

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- exceeds the upper accrual point and does not exceed the current upper earnings limit,”,
- (c) in paragraph (c), for “the current upper earnings limit” (in both places) substitute “ the upper accrual point ”, and
- (d) after that paragraph insert—
- “(ca) if paragraph (c) applies, the amount obtained by applying the main primary percentage referred to in paragraph (d) to such part of the aggregated earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), exceeds the upper accrual point and does not exceed the current upper earnings limit.”.
- (3) In sub-paragraph (3) (as amended by sub-paragraph (2) above and by paragraph 45(2) of Schedule 4 to the Pensions Act 2007 (c. 22))—
- (a) omit paragraph (ba),
- (b) in paragraph (c)—
- (i) omit “if some of the aggregated earnings are attributable to COSRS service,”, and
- (ii) for “the current upper earnings limit” substitute “ the upper accrual point ”, and
- (c) in paragraph (ca), omit—
- (i) “if paragraph (c) applies”, and
- (ii) “, when added to the APPS earnings or the part attributable to COMPS service (or both),”.
- (4) After sub-paragraph (10) insert—
- “(11) In relation to such earners, any reference in this paragraph to the upper accrual point is to be read as a reference to the prescribed equivalent (see section 122(6A)).”
- (5) The amendments made by sub-paragraphs (2) and (4) have effect in relation to 2009-10 and subsequent tax years.

#### **Commencement Information**

**II** Sch. 1 para. 6 partly in force; Sch. 1 para. 6(1)(2)(4)(5) in force at 21.9.2008 see s. 6

#### *Pension Schemes Act 1993 (c. 48)*

- 7 The Pension Schemes Act 1993 is amended as follows.
- 8 (1) Section 8 (meaning of “contracted-out employment” etc) is amended as follows.
- (2) In subsection (2), in the definition of “minimum payment”, for “the current upper earnings limit” substitute “ the applicable limit ”.
- (3) After that subsection insert—
- “(2A) In subsection (2) “the applicable limit” means—
- (a) in relation to a tax year before 2009-10, the upper earnings limit;

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- (b) in relation to 2009-10 or any subsequent tax year, the upper accrual point.”
- 9 In section 12B(7) (contracted-out pension scheme: reference scheme), in the definition of “the applicable limit”—
- (a) for “the flat rate introduction year” (in both places) substitute “ 2009-10 ”, and
- (b) in paragraph (b), after “point” insert “ multiplied by 53 ”.
- 10 (1) Section 41 (reduced rates of Class 1 contributions for members of salary related contracted-out schemes) is amended as follows.
- (2) In subsection (1) for “the applicable limit for that week” substitute “ the upper accrual point ”.
- (3) Omit subsection (1ZA).
- (4) The amendments made by this paragraph have effect in relation to 2009-10 and subsequent tax years.
- 11 (1) In section 42A(1) (reduced rates of Class 1 contributions, and rebates, for members of money purchase contracted-out schemes), for “the current upper earnings limit for that week” substitute “ the upper accrual point ”.
- (2) The amendment made by sub-paragraph (1) has effect in relation to 2009-10 and subsequent tax years.
- 12 (1) In section 45(1) (personal pensions: amount of minimum contributions), for “the current upper earnings limit for that week” substitute “ the upper accrual point ”.
- (2) The amendment made by sub-paragraph (1) has effect in relation to 2009-10 and subsequent tax years.
- 13 (1) Paragraph 2 of Schedule 4 (priority in bankruptcy etc: employee's contributions to occupational pension scheme) is amended as follows.
- (2) In sub-paragraph (5), in paragraph (b) of the definition of “reckonable earnings”, for “the applicable limit” substitute “ the upper accrual point ”.
- (3) Omit sub-paragraph (6).
- (4) The amendments made by this paragraph have effect in relation to payments made in a tax week falling in 2009-10 or any subsequent tax year.

## SCHEDULE 2

Section 4

### REPEALS

#### Commencement Information

**I2** Sch. 2 partly in force; Sch. 2 in force at 21.9.2008 other than in relation to specified repeals, see s. 6.

*Short title and chapter*

*Extent of repeal*

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Social Security Contributions and Benefits Act 1992 (c. 4)	<p>In section 5, in subsection (1) the words from “which” to the end, and subsection (3). Section 44B(7)(a). Section 122(7) and (8). In section 176(1)(c), the words “section 122(8)”.</p> <p>In Schedule 1, in paragraph 1(3)—</p> <ul style="list-style-type: none"><li>(a) paragraph (ba),</li><li>(b) in paragraph (c), the words “if some of the aggregated earnings are attributable to COSRS service,”, and</li><li>(c) in paragraph (ca), the words “if paragraph (c) applies” and “, when added to the APPS earnings or the part attributable to COMPS service (or both),”.</li></ul> <p>In Schedule 4A—</p> <ul style="list-style-type: none"><li>(a) in paragraph 2, in sub-paragraph (4A) in table 2A the words “but not exceeding AUEL”, and sub-paragraph (6)(d),</li><li>(b) in paragraph 5(4A), in table 4A the words “but not exceeding AUEL”,</li><li>(c) in paragraph 7(4A), in table 6A the words “but not exceeding AUEL”, and</li><li>(d) paragraph 8(4)(d).</li></ul> <p>In Schedule 4B—</p> <ul style="list-style-type: none"><li>(a) in paragraph 5(a), the words “but which does not exceed the UAP”,</li><li>(b) in paragraph 9(2)(a), the words “but which does not exceed the UAP”,</li><li>(c) in paragraph 10(1)(a), the words “but which does not exceed the UAP”, and</li><li>(d) in paragraph 12, the definition of “the UAP”.</li></ul>
Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)	<p>In section 5, in subsection (1) the words from “which” to the end, and subsection (3).</p>
Pension Schemes Act 1993 (c. 48)	<p>Section 41(1ZA). In section 181(1), the definition of “the flat rate introduction year”. In Schedule 4, paragraph 2(6).</p>
Pensions Act 2007 (c. 22)	<p>Section 7(2). Section 8(2). Section 10(2)(c) and (5). In Schedule 1, paragraphs 35(a), 37 and 39.</p>

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- 1           The repeals of—
- (a) section 5(3) of the Social Security Contributions and Benefits Act 1992 (c. 4) and,

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(b) section 5(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7),  
have effect as mentioned in section 1(3) or 2(3) (respectively).

2 The repeals of—

(a) section 41(1ZA) of the Pension Schemes Act 1993 (c. 48),  
(b) the definition of “the flat rate introduction year” in section 181(1) of that Act, and  
(c) paragraph 37 of Schedule 1 to the Pensions Act 2007 (c. 22),  
have effect in relation to 2009-10 and subsequent tax years.

3 The repeals of—

(a) paragraph 2(6) of Schedule 4 to the Pension Schemes Act 1993, and  
(b) paragraph 39 of Schedule 1 to the Pensions Act 2007,  
have effect in relation to payments made in a tax week falling in 2009-10 or any subsequent tax year.



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