

---

 STATUTORY INSTRUMENTS
 

---

1977 No. 1706

## SOCIAL SECURITY

## The Social Security (Earnings Factor)

## Amendment Regulations 1977

Made - - - -	24th October 1977
Laid before Parliament	25th October 1977
Coming into Operation	6th April 1978

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections 13(5) and 115(1) of and paragraph 2 of Schedule 13 to the Social Security Act 1975(a) and section 35(3) of the Social Security Pensions Act 1975(b), and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the preliminary draft submitted to them, hereby makes the following regulations which only make provision consequential on the passing of the Social Security Pensions Act 1975 and which accordingly, by virtue of section 61(1)(e) of that Act, are not subject to the requirements of section 139(1) of the Social Security Act 1975 for prior reference to the National Insurance Advisory Committee:—

*Citation, interpretation and commencement*

1. These regulations, which may be cited as the Social Security (Earnings Factor) Amendment Regulations 1977, shall be read as one with the Social Security (Earnings Factor) Regulations 1975(c) (hereinafter referred to as “the principal regulations”) and shall come into operation on 6th April 1978.

*Substitution in the principal regulations*

2. In regulation 3 of the principal regulations for the words “alleged to be paid” there shall be substituted the words “treated as having been paid or as not repaid”.

*Substitution in the Schedule to the principal regulations*

3. For the rules contained in Part I of the Schedule to the principal regulations there shall be substituted the rules contained in the Schedule to these regulations.

David Ennals,

24th October 1977.

Secretary of State for Social Services.

---

(a) 1975 c.14.

(b) 1975 c. 60.

(c) S.I. 1975/468 (1975 I, p. 1459).

## Regulation 3

## SCHEDULE

*Rules to be substituted for those in Part I of the Schedule to the principal regulations*

“1.—(1) In this Part of this Schedule—

- (a) “Class 1 contributions” means primary Class 1 contributions;
- (b) “contracted-out contributions” means contributions paid on earnings in respect of a person’s contracted-out employment being earnings in excess of the current lower earnings limit or the prescribed equivalent if he is paid otherwise than weekly;
- (c) “the Pensions Act” means the Social Security Pensions Act 1975;
- (d) “the standard level” in relation to any year means that year’s lower earnings limit for Class 1 contributions multiplied by 50;
- (e) any reference to a rate of contributions which is expressed as a percentage is to the figure or figures appropriate for specifying the percentage and not to the percentage itself;
- (f) where a sum is to be rounded to the nearest whole penny or the nearest whole pound  $\frac{1}{2}$ p shall be taken as nearest to the next whole penny above and 50p as nearest to the next whole pound above respectively; and
- (g) each paragraph has effect subject to the provisions of all later paragraphs.

(2) Paragraphs 2 to 6 below shall apply for the purposes specified in section 13(2) of the Act as amended by paragraph 38 of Schedule 4 to the Pensions Act, and paragraph 6A for the purposes of section 35 of the Pensions Act (earner’s guaranteed minimum).

2. The earnings factor derived from a person’s Class 1 contributions actually paid in respect of any year shall be  $100 \left[ \left( \frac{P - Q + S}{R} \right) + \left( \frac{Q + S1}{R1} \right) \right]$ , where

- (a) P is the amount of his Class 1 contributions actually paid in respect of that year;
  - (b) S or S1 is the smallest sum required to make the factor  $(P - Q + S)$  or  $(Q + S1)$  respectively a multiple of 10 pence treating 0 pence for this purpose as being a sum;
  - (c) Q is the amount of his contracted-out contributions paid in respect of that year;
  - (d) R is—
    - (i) in relation to any Class 1 contributions paid at the rate specified in section 4(6)(a) of the Act, the rate in question in force for that year; and
    - (ii) in relation to any Class 1 contributions paid at the rate so specified as modified by regulations under sections 128 to 132 of the Act, the rate in question as so modified in force for that year; and
  - (e) R1 is the rate of contracted-out contributions in force for that year ascertained by reference to section 27(2)(a) of the Pensions Act;
- and the amount resulting shall be rounded to the nearest whole penny.

3. Where in respect of any year a person’s Class 1 contributions actually paid have been or are to be recorded as separate sums in the records of the Department of Health and Social Security, the earnings factor derived from those contributions shall be the aggregate of the amounts ascertained by applying the provisions of paragraph 2 above separately to each sum.

4. The earnings factor derived from a person’s Class 1 contributions paid or credited in respect of any year shall be ascertained by aggregating—

- (a) the earnings factor derived from his Class 1 contributions actually paid in respect of that year (ascertained by applying the provisions of paragraphs 2 or 3 above); and
- (b)  $\frac{100C}{R}$ , where
  - (i) C is the amount of his Class 1 contributions credited in respect of that year; and
  - (ii) R is the rate of contributions specified in section 4(6)(a) of the Act in force for that year.

5. Any earnings factor ascertained under paragraphs 2 to 4 above shall be rounded to the nearest whole pound.

6. Where a person has actually paid any Class 1 contributions in respect of a year and, but for this paragraph, the ascertainment of any earnings factor of his in respect of that year by the application of the rules contained in paragraphs 2 to 5 above would have the effect that—

- (a) that earnings factor; or
- (b) any aggregate of his earnings factors, either all derived from contributions actually paid or all derived from contributions paid or credited, for the same year, would fall short of—
  - (i) the qualifying earnings factor, by an amount not exceeding £14, or
  - (ii) the standard level, by an amount not exceeding £14, or
  - (iii) three-quarters of the standard level, by an amount not exceeding £11, or
  - (iv) one-half of the standard level, by an amount not exceeding £7,

the amount of that earnings factor as so ascertained shall, for the purposes of section 13(2)(a) of the Act, be increased by the amount of the shortfall, and the amount resulting shall be rounded up to the next whole pound.

6A.—(1) The earnings factor for any year derived from a person's contracted-out contributions in respect of any contracted-out employment shall be  $\frac{100(Q + S1)}{R1}$ , where—

- (a) Q is the amount of his contracted-out contributions paid, or treated for the purposes of this paragraph as having been paid or as not repaid, in respect of that year and in respect of that employment; and
- (b) S1 and R1 have the same meaning as in paragraph 2 above; and the amount resulting shall be rounded to the nearest whole penny.

(2) Where in respect of any year a person's Class 1 contributions paid or treated for the purposes of this paragraph as having been paid or as not repaid have been or are to be recorded as separate sums in the records of the Department of Health and Social Security, the earnings factor derived from those contributions shall be the aggregate of the amounts ascertained by applying the provisions of sub-paragraph (1) above separately to each sum.

(3) Any earnings factor ascertained by applying the provisions of sub-paragraphs (1) and (2) above shall be rounded to the nearest whole penny."

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations prescribe rules for deriving from Class 1 contributions paid, or paid and credited, under the Social Security Act 1975 the earnings factors by reference to which the contribution conditions for contributory benefits are expressed in Schedule 3 to that Act, the rate of earnings-related supplement or addition to certain benefits is calculated under Schedule 6 to that Act, the additional component in the rate of long-term benefits is calculated by virtue of section 6 of the Social Security Pensions Act 1975 and an earner's guaranteed minimum is calculated under section 35 of the latter Act. The rules are substituted for those contained in Part I of the Schedule to the Social Security (Earnings Factor) Regulations 1975.

The report of the Occupational Pensions Board on the preliminary draft of these Regulations, dated 15th August 1977, is contained in Command Paper (Cmnd 6975) published by Her Majesty's Stationery Office.

SI 1977/1706  
ISBN 0-11-071706-6

