

STATUTORY INSTRUMENTS

1985 No. 1417

SOCIAL SECURITY

**The Social Security (Earnings Factor) Amendment Regulations
1985**

Made - - - - - 10th September 1985
Laid before Parliament 13th September 1985
Coming into Operation 6th October 1985

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 13(5) and (5A) of the Social Security Act 1975(a), sections 6(5A) and 35(3) of the Social Security Pensions Act 1975(b) and section 32(6) of the Social Security Act 1985(c), and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the draft regulation 2(5) submitted to them, by this instrument, which contains only provisions consequential upon section 7 of the Social Security Act 1985 and regulations made under section 13(5A) of the Social Security Act 1975 and section 6(5A) of the Social Security Pensions Act 1975, makes the following regulations:—

Citation, commencement and interpretation

1.— (1) These regulations may be cited as the Social Security (Earnings Factor) Amendment Regulations 1985 and shall come into operation on 6th October 1985.

(2) In these regulations, “the principal regulations” means the Social Security (Earnings Factor) Regulations 1979(d).

Amendment of the principal regulations

2.— (1) Schedule 1 to the principal regulations shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph 2 of Part I (Class 1 contributions) there shall be substituted the following paragraph:—

“2. The earnings factor derived from a person’s Class 1 contributions actually paid in respect of the year commencing 6th April 1985, and of any year thereafter, shall be—

(a) 1975 c.14; section 13(5A) was inserted by the Social Security Act 1985 (c.53), section 29(1); Schedule 5, paragraph 6.

(b) 1975 c.60; section 6(5A) was inserted by the Social Security Act 1985, section 29(1); Schedule 5, paragraph 16.

(c) 1985 c.53.

(d) S.I. 1979/676.

$$100 \left[F \left(\frac{P-Q}{R} \right) + G \left(\frac{Q}{R1} \right) \right]$$

where

- (a) P is the amount of his Class 1 contributions actually paid in respect of that year;
- (b) Q is the amount of his contracted-out Class 1 contributions so paid;
- (c) R—
 - (i) in relation to any Class 1 contributions paid at a rate specified in section 4(6)–(6B) of the Act, is the highest of the rates in question in force for that year; and
 - (ii) in relation to any Class 1 contributions paid at a rate so specified as modified by regulations under sections 128 to 132 of the Act, is the highest of the rates in question as so modified in force for that year;
- (d) R1 is the highest of the rates of contracted-out contributions in force for that year ascertained by reference to section 27(2)(a) of the Pensions Act;
- (e) F is—
 - (i) in relation to any Class 1 contributions paid at a rate specified in section 4(6)–(6B) of the Act—
 - (aa) 1.8, where P–Q is less than £143,
 - (bb) $\frac{130}{P-Q} + 0.891$, where P–Q is not less than £143 but not greater than £1,192.66,
 - (cc) 1, where P–Q is greater than £1,192.66;
 - (ii) in relation to any Class 1 contributions paid at a rate so specified as modified by regulations under section 128 of the Act—
 - (aa) 1.976, where P is less than £117.25,
 - (bb) $\frac{128.5}{P} + 0.88$, where P is not less than £117.25 but not greater than £1,070.83,
 - (cc) 1, where P is greater than £1,070.83;
 - (iii) in relation to any Class 1 contributions paid at a rate so specified as modified by regulations under section 129 of the Act—
 - (aa) 1.842, where P is less than £135.85,
 - (bb) $\frac{129.6}{P} + 0.888$, where P is not less than £135.85 but not greater than £1,157.14,
 - (cc) 1, where P is greater than £1,157.14;
 - (iv) in relation to such part of any Class 1 contributions as is paid at the normal percentage in accordance with section 27(1)(a) of the Pensions Act in a year in which no payment is made of contributions to which head (i) above applies—

- (aa) 1.8, where $P - Q$ is less than £92.30,
- (bb) $\frac{166.14}{P - Q}$, where $P - Q$ is not less than £92.30 but not greater than £166.14,
- (cc) 1, where $P - Q$ is greater than £166.14;
- (v) in relation to such part of any Class 1 contributions as is paid at the normal percentage in accordance with section 27(1)(a) of the Pensions Act in a year in which there are also paid contributions to which head (i) applies—
- (aa) 1.8, where $P - Q$ is less than £143,
- (bb) $\frac{130}{P - Q} + 0.891$, where $P - Q$ is not less than £143 but not greater than £1,192.66,
- (cc) 1, where $P - Q$ is greater than £1,192.66;
- (vi) in relation to such part of any Class 1 contributions as is paid at the normal percentage in accordance with section 27(1)(a) of the Pensions Act as modified by regulations under section 128 of the Act—
- (aa) 1.976, where $P - Q$ is less than £75.69,
- (bb) $\frac{149.53}{P - Q}$, where $P - Q$ is not less than £75.69 but not greater than £149.53,
- (cc) 1, where $P - Q$ is greater than £149.53;
- (vii) in relation to such part of any Class 1 contributions as is paid at the normal percentage in accordance with section 27(1)(a) of the Pensions Act as modified by regulations under section 129 of the Act—
- (aa) 1.842, where $P - Q$ is less than £87.69,
- (bb) $\frac{161.53}{P - Q}$, where $P - Q$ is not less £87.69 but not greater than £161.53,
- (cc) 1, where $P - Q$ is greater than £161.53;
- (f) G is,—
- (i) in relation to any Class 1 contributions paid at the highest of the rates specified in section 4(6)–(6B) of the Act or to any contracted-out contributions ascertained by reference to section 27(2)(a) of the Pensions Act,—
- (aa) 2.4, where Q is less than £46.98,
- (bb) $\frac{70}{Q} + 0.91$, where Q lies between £46.98 and £777.78,

- (cc) 1, where Q is greater than £777.78;
- (ii) in relation to any contracted-out contributions ascertained by reference to section 27(2)(a) of the Pensions Act, as modified by regulations under section 128 of the Act,—
- (aa) 3.05, where Q is less than £32.05,
- (bb) $\frac{69}{Q} + 0.897$, where Q lies between £32.05 and £669.90,
- (cc) 1, where Q is greater than £669.90;
- (iii) in relation to any contracted-out contributions ascertained by reference to section 27(2)(a) of the Pensions Act, as modified by regulations under section 129 of the Act,—
- (aa) 2.54, where Q is less than £43.10,
- (bb) $\frac{70}{Q} + 0.906$, where Q lies between £43.10 and £744.68,
- (cc) 1, where Q is greater than £744.68;

and the amount resulting shall be rounded to the nearest whole penny.”.

(3) At the end of paragraph 3 of Part I, there shall be added the words “so however that, where the values to be accorded to F and G are identical for two or more separate sums, those sums shall be aggregated and the provisions of paragraph 2 above shall apply to the resulting aggregate sum.”.

(4) For head (ii) of paragraph 4(b) of Part I, there shall be substituted the following head,—

“(ii) R is the highest of the rates of contributions specified in section 4(6)–(6B) of the Act in force for that year.”.

(5) For paragraph 7(1) of Part I there shall be substituted the following paragraph:—

“7.—(1) The earnings factor derived from a person’s contracted-out contributions for the year commencing 6th April 1985, and for any year thereafter, in respect of any contracted-out employment shall be

$$\frac{100Q}{R1} \text{—where—}$$

- (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) R1 is the highest of the rates 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.”.

Transitional

3.— (1) The earnings factor derived from a person's Class 1 contributions actually paid in respect of any year before 6th April 1985 shall be ascertained as if regulation 2 had not been made.

(2) Where but for regulation 2 of these Regulations the earnings factor derived from a person's contributions in the year commencing 6th April 1985 would be less than the lower earnings limit multiplied by 25, the earnings factor for that year shall, subject to paragraph (3) below, be ascertained as if regulation 2 had not been made, where

- (a) he has had disallowed a claim for sickness benefit or unemployment benefit for a period falling wholly or partly before 6th October 1985 or for a day falling before that date, and
- (b) the disallowance decision is, in accordance with regulation 11(3) or, as the case may be, 12(6) of the Social Security (Claims and Payments) Regulations 1979(a) to be treated as a disallowance of any further claim for that benefit in respect of any period falling wholly or partly after 5th October 1985 or any day falling thereafter.

(3) Paragraph (2) above shall not apply to any person in respect of whom Class 1 contributions are paid for any week commencing after 5th October 1985 in the year ending 5th April 1986.

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

Trumpington,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

10th September 1985.

(a) S.I. 1979/628; regulation 12(6) was added by regulation 2(2) of S.I. 1980/1943.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations are made under section 13(5A) of the Social Security Act 1975 and section 6(5A) of the Social Security Pensions Act 1975, as amended by the Social Security Act 1985, or are otherwise consequential upon section 7 of the 1985 Act. As they are also made earlier than 6 months from the first day appointed for the coming into force of section 7 (6th October 1985), they are exempted by section 27(8)(b) of the 1985 Act from the requirement under section 10(1) of the Social Security Act 1980 (c.30) to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

Regulation 1 of the regulations relates to their citation, commencement and interpretation.

Regulation 2, by substituting new formulae in Schedule 1 to the Social Security (Earnings Factor) Regulations 1979, makes provision for those employed earners who pay primary Class 1 contributions at a reduced rate as from 6th October 1985 to have the earnings factor derived from those contributions boosted.

Regulation 3 provides for earnings factors in respect of tax years ending before 6th April 1985 to be ascertained without reference to regulation 2; it further provides that the earnings factor for the year commencing 6th April 1985 of persons subject to a forward disallowance of unemployment or sickness benefit because of a failure to satisfy the first contribution condition shall continue to be ascertained without reference to regulation 2 unless further contributions are paid in that year.

The report of the Occupational Pensions Board on the preliminary draft of regulation 2(5) dated 5th September 1985, is contained in a Command Paper (Cmnd. 9623) published by Her Majesty's Stationery Office.

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