

1987 No. 411

SOCIAL SECURITY

**The Social Security (Earnings Factor) Amendment
(No. 2) Regulations 1987**

<i>Made</i> - - - -	<i>11th March 1987</i>
<i>Laid before Parliament</i>	<i>16th March 1987</i>
<i>Coming into force</i> -	<i>6th April 1987</i>

The Secretary of State for Social Services, in exercise of powers conferred on him by sections 13(5) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(a), section 35(3) of the Social Security Pensions Act 1975(b) and sections 84(1) and 89(1) of the Social Security Act 1986(c) and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made under sections 84(1) and 89(1) of, and provisions consequential upon sections 42 and 75 of and Schedule 8 to the Social Security Act 1986 and which is made before the end of a period of 12 months from their commencement, makes the following Regulations:-

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Earnings Factor) Amendment (No. 2) Regulations 1987 and shall come into force on 6th April 1987.

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

Amendment of principal regulations

2.—(1) The principal regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 1 (interpretation)-

(a) the definition of “contributions” shall be omitted; and

(b) after paragraph (2) there shall be added the following paragraph-

“(3) In these regulations references to contributions of any class are to contributions actually of that class notwithstanding that for the purposes of any benefit they may be treated as or be deemed to be contributions of another class.”

(3) In regulation 2 (ascertainment of earnings factors) for the word “contributions” there shall be substituted the words “earnings or Class 2 or Class 3 contributions”.

(4) In Schedule 1 (rules for the ascertainment of earnings factors), Part I (Class 1 contributions) shall be amended as follows-

(a) 1975 c.14; section 13(5) was amended by the Social Security Act 1986 (c.50), section 75; Schedule 8, paragraph 2(4). See the definition of “regulations” in Schedule 20 to the Social Security Act 1975. Section 168(1) applies, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c.60), to the exercise of certain powers conferred by that Act.

(b) 1975 c.60.

(c) 1986 c.50; see the definition of “regulations” in section 84(1).

(d) S.I. 1979/676; amended by S.I. 1985/1417, 1987/316.

- (a) in paragraph 1(1) sub-paragraphs (e) and (f) shall be omitted;
- (b) for paragraph 2 there shall be substituted the following paragraph—
- “2.—(1) Subject to sub-paragraph (2) below, a person’s earnings factor derived in respect of the year commencing on 6th April 1987 or any subsequent year from—
- (a) those of his earnings in respect of such year upon which Class 1 contributions have been paid or treated as paid, and
- (b) earnings with which he has been credited in respect of such year, shall be equal to the amount of those actual and credited earnings.
- (2) Any earnings factor ascertained under sub-paragraph (1) above shall be rounded down to the nearest whole pound.”;
- (c) for paragraph 3 there shall be substituted the following paragraph—
- “3. Where, in respect of the year commencing on 6th April 1987, or any subsequent year, a person’s earnings upon which Class 1 contributions have been paid or treated as paid are, 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 earnings shall be equal to the aggregate of the amounts ascertained by rounding down each sum separately to the nearest whole pound.”;
- (d) paragraphs 4 and 5 shall be omitted;
- (e) for paragraph 6 there shall be substituted the following paragraph—
- “6. Where a person has actual earnings in respect of the year commencing on 6th April 1987, or any subsequent year, upon which Class 1 contributions have been paid or treated as paid and, but for this paragraph, the ascertainment of any earnings factor of his in respect of such year by the application of paragraphs 2 or 3 above would have the effect that—
- (a) his earnings factor derived from those earnings, or
- (b) the aggregate of his earnings factors derived from those earnings, and any earnings credited in respect of the same year, together with any derived from Class 2 or Class 3 contributions paid or credited in that year
- would fall short of—
- (i) the qualifying earnings factor, by an amount not exceeding £50, or
- (ii) the standard level, by an amount not exceeding £50, or
- (iii) one-half of the standard level, by an amount not exceeding £25,
- the amount of that earnings factor as so ascertained shall, for the purpose 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.”;
- (f) for paragraph 7 there shall be substituted the following paragraph—
- “7.—(1) A person’s earnings factor derived in respect of the year commencing on 6th April 1987, or any subsequent year, from those of his earnings in contracted-out employment upon which contracted-out contributions have been paid, or treated as paid, in respect of such year, shall be equal to the amount of those earnings.
- (2) Any earnings factor ascertained under sub-paragraph (1) above shall be rounded down to the nearest whole pound.
- (3) Where, in respect of the year commencing on 6th April 1987, or any subsequent year, a person’s earnings upon which contracted-out contributions have been paid or treated as paid are, 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 earnings shall be equal to the aggregate of the amounts ascertained by rounding down each sum separately to the nearest whole pound.”.

Transitional

3. A person's earnings factors in respect of any year before 6th April 1987 shall be ascertained as if regulation 2 had not been made.

Signed by authority of the Secretary of State for Social Services

11th March 1987

John Major
Minister of State, Department of Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are all consequential on sections 42 and 75 of and Schedule 8 to the Social Security Act 1986, and are made before the expiry of the period of twelve months beginning with their commencement. Consequently, by virtue of section 61(5) of that Act, the provisions of section 10(1) of the Social Security Act 1980 (c.30) (which require reference to the Social Security Advisory Committee) and section 61(2) and (3) of the Social Security Pensions Act 1975 (which require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for certain purposes of that Act) do not apply to them.

The Regulations amend the Social Security (Earnings Factor) Regulations 1979 ("the principal regulations"). The amendments are contained in regulation 2 and apply in respect of the tax year 1987/8 and subsequent years. Regulation 2 of the principal regulations is substituted to provide that earnings factors derived from a person's earnings or Class 2 or Class 3 contributions shall be ascertained in accordance with Schedule 1.

In Schedule 1, paragraphs 1(1)(e) and (f), 4 and 5 are omitted and paragraphs 2, 3, 6 and 7 are substituted. Paragraph 2 as substituted provides that a person's earnings factor derived from specified earnings shall be equal to the amount of those earnings; paragraph 7(1) as substituted provides that the earnings factor shall be ascertained in the same way in respect of specified earnings in contracted-out employment. In both cases, the earnings factor is to be rounded down to the nearest pound.

Paragraph 3 as substituted provides that the earnings factor derived from specified earnings recorded as separate sums in Department of Health and Social Security records shall be equal to the aggregate of the amounts ascertained by rounding down each sum to the nearest pound. Paragraph 7(3) as substituted provides similarly in relation to specified earnings on which contracted-out contributions have been paid or treated as paid.

Paragraph 6 is substituted to reflect the changes in the method of ascertaining earnings factors, and the other provisions of regulation 2 of these Regulations contain amendments consequential upon those changes.

Regulation 3 provides for earnings factors in respect of tax years ending before 6th April 1987 to be ascertained without reference to regulation 2.

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