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STATUTORY INSTRUMENTS

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**1996 No. 2477**

**PENSIONS**

**The Social Security (Contracting-out and  
Qualifying Earnings Factor) Regulations 1996**

*Made* - - - - 26th September 1996  
*Laid before Parliament* 3rd October 1996  
*Coming into force* - - 6th April 1997

The Secretary of State for Social Security in exercise of the powers conferred upon him by sections 48A(5) and 182(2) and (3) of the Pension Schemes Act 1993<sup>(1)</sup> and of all other powers enabling him in that behalf, by this instrument, which contains regulations which are made before the end of the period of 6 months beginning with the coming into force of section 48A of that Act<sup>(2)</sup> hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Contracting-out and Qualifying Earnings Factor) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations, unless the context otherwise requires—

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992<sup>(3)</sup>;

“the Pension Schemes Act” means the Pension Schemes Act 1993.

**Modification of the application of section 44(5) of the Contributions and Benefits Act**

2.—(1) Where, by virtue of subsection (1) of section 48A of the Pension Schemes Act, section 44(6) of the Contributions and Benefits Act has effect for the tax year 1997-98 or any later tax year, in relation to some but not all of the earnings of an earner, the application of section 44(5) of the Contributions and Benefits Act is modified for that year in accordance with this regulation.

(2) In a case where the year is one in which the amount of a Class 1 contribution in respect of the earnings paid to or for the benefit of an earner in a tax week is reduced under sections 41 or 42A

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(1) 1993 c. 48. Section 48A is inserted by section 140(1) of the Pensions Act 1995 (c. 26).

(2) See section 185(6) of the Pension Schemes Act 1993 and section 173(5)(b) of the Social Security Administration Act 1992 (c. 5.) under which the requirement to consult does not apply to regulations made by virtue of, or consequential upon, a specified enactment and which are made within 6 months of the coming into force of that enactment.

(3) 1992 c. 4.

of the Pension Schemes Act(4) (reduced rates of Class 1 contributions for earners in contracted-out employment) section 44(5) of the Contributions and Benefits Act is modified so that the qualifying earnings factor for the purposes of section 44(5)(a) of that Act shall be calculated by applying the formula—

$$L \times (52 - N)$$

where—

L is the weekly lower earnings limit for the final relevant year; and

N is the number of tax weeks in which a Class 1 contribution for the earner is reduced in accordance with sections 41 or 42A of the Pension Schemes Act.

(3) In a case where the year is one in which an amount is paid in respect of an earner under section 45(1) of the Pension Schemes Act(5) (minimum contributions towards appropriate personal pension schemes) section 44(5) of the Contributions and Benefits Act is modified so that the qualifying earnings factor for the purposes of section 44(5)(a) of that Act shall be zero.

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

Department of Social Security  
26th September 1996

*A. J. B. Mitchell*  
Parliamentary Under-Secretary of State,

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(4) Section 41(1) is substituted by section 137(2) of the Pensions Act 1995. Section 42A is inserted by section 137(5) of the Pensions Act 1995.

(5) Section 45(1) is substituted by section 138(2) of the Pensions Act 1995.

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## EXPLANATORY NOTE

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

These Regulations modify the application of section 44(5) of the Social Security Contributions and Benefits Act 1992 (Category A retirement pension) in relation to an earner who has earnings in a tax year beginning on or after 6th April 1997, part of which are in respect of contracted-out employment and part of which are not, or an earner in respect of whom minimum contributions are paid for part of a tax year.

Regulation 2 modifies the calculation of the qualifying earnings factor in relation to such a tax year so that entitlement to additional pension is not affected.

These Regulations do not impose any costs on business.