
STATUTORY INSTRUMENTS

1979 No. 676

SOCIAL SECURITY

The Social Security (Earnings Factor) Regulations 1979

<i>Made</i>	- - - -	<i>18th June 1979</i>
<i>Laid before Parliament</i>		<i>25th June 1979</i>
<i>Coming into Operation</i>		<i>16th July 1979</i>

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, section 35(3) of the Social Security Pensions Act 1975 and section 1(5) of the Social Security (Miscellaneous Provisions) Act 1977 and of all other powers enabling him in that behalf and for the purpose only of consolidating the regulations hereby revoked, hereby makes the following regulations, which accordingly are not subject to the requirement for prior reference to the National Insurance Advisory Committee⁽¹⁾ or to the Occupational Pensions Board⁽²⁾:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Earnings Factor) Regulations 1979 and shall come into operation on 16th July 1979.

(2) In these regulations—

“the Act” means the Social Security Act 1975;

^{F1}
...

“the Contributions Regulations” means the Social Security (Contributions) Regulations 1979;

“year” means tax year;

and other expressions have the same meanings as in the Act.

[^{F2}(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.]

F1 Words in [reg. 1\(2\)](#) omitted (6.4.1987) by virtue of [The Social Security \(Earnings Factor\) Amendment \(No. 2\) Regulations 1987 \(S.I. 1987/411\)](#), [regs. 1\(1\), 2\(2\)\(a\)](#) (with [reg. 3](#))

(1) See section 139(2) of, and paragraph 20 of Schedule 15 to, the Social Security Act 1975.

(2) See section 61(2) of the Social Security Pensions Act 1975 as amended by section 21(4) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1979 (c. 18).

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F2 Reg. 1(3) added (6.4.1987) by [The Social Security \(Earnings Factor\) Amendment \(No. 2\) Regulations 1987 \(S.I. 1987/411\)](#), regs. 1(1), **2(2)(b)** (with reg. 3)

Ascertainment of earnings factors

[^{F3}2.—(1) The earnings factors derived from a person's earnings paid in, or from earnings credited or Class 2 or Class 3 contributions in respect of, any year shall, subject to paragraph (2) of this regulation, be ascertained in accordance with the rules contained in Schedule 1 to these Regulations.

(2) A person's earnings factors in respect of the year commencing on 6th April 1988, or any subsequent year, shall not in respect of any such year together exceed an amount equal to 58 times the upper earnings limit of that year.]

F3 Reg. 2 substituted (4.4.1988) by [The Social Security \(Earnings Factor\) Amendment Regulations 1988 \(S.I. 1988/429\)](#), regs. 1(1), **2(2)**

Evidence of official records

3. For the purposes of Part III of the Act (determination of claims and questions) a certificate signed by a duly authorised officer of the [^{F4}Department of Social Security] , as to the manner in which any contributions paid or treated as having been paid or as not repaid have been or are to be recorded in the records of that Department, shall be sufficient evidence of the facts so certified; and any document purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

F4 Words in reg. 3 substituted (28.11.1988) by [The Transfer of Functions \(Health and Social Security\) Order 1988 \(S.I. 1988/1843\)](#), **art. 3(4)**, reg. 1

Contributions to be treated as having been paid or as not repaid

4. For the purposes of [^{F5}paragraph 5] of Schedule 1 to these regulations—

- (a) any contributions which would have been payable by the person in question but for the fact that they are not payable by virtue of regulation 49 of the Contributions Regulations, or
- (b) any contributions repayable or repaid to him under regulation 32 of those regulations as having been paid in excess of the amount prescribed in regulation 17 of those regulations (annual maximum)

shall be treated as having been paid and in the case of repaid contributions as not repaid.

F5 Words in [reg. 4](#) substituted (6.6.1991) by [The Social Security \(Earnings Factor\) Amendment Regulations 1991 \(S.I. 1991/1165\)](#), regs. 1, **2**

Revocations

5. The regulations specified in Schedule 2 to these regulations are hereby revoked.

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Patrick Jenkin
Secretary of State for Social Services

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SCHEDULE 1

Regulation 2

RULES FOR THE ASCERTAINMENT OF EARNINGS FACTORS

[^{F6}PART I

CLASS 1 CONTRIBUTIONS

F6 Sch. 1 Pt. I substituted (6.6.1991) by [The Social Security \(Earnings Factor\) Amendment Regulations 1991 \(S.I. 1991/1165\)](#), regs. 1, 3, **Sch.**

1.—(1) In this Part of this Schedule—

[^{F7}“Class 1 contributions” means primary Class 1 contributions paid or treated as paid on so much of a person’s earnings as do not exceed the current upper earnings limit or the prescribed equivalent if he is paid otherwise than weekly;]

[^{F7}“contracted-out contributions” means primary Class 1 contributions paid or treated as paid on so much of a person’s earnings in respect of any contracted-out employment as exceed the current lower earnings limit but do not exceed the current upper earnings limit or the prescribed equivalents if he is paid otherwise than weekly;]

“the standard level” in relation to any year means that year’s lower earnings limit for [^{F8}primary] Class 1 contributions multiplied by 50; and

each paragraph has effect subject to the provisions of all later paragraphs.

(2) Paragraphs 2, 3 and 4 below shall apply for the purposes specified in section 13(2) of the Act[^{F9}, or section 2(4) of the Pensions Act 2014], and paragraph 5 below for the purposes of section 35 of the Social Security Pensions Act 1975 (earner’s guaranteed minimum).

F7 Words in Sch. 1 para. 1(1) substituted (6.4.2003) by [The Social Security \(Earnings Factor\) Amendment Regulations 2003 \(S.I. 2003/608\)](#), regs. 1(1), **2(a)** (with reg. 3)
F8 Word in Sch. 1 para. 1(1) inserted (6.4.2003) by [The Social Security \(Earnings Factor\) Amendment Regulations 2003 \(S.I. 2003/608\)](#), regs. 1(1), **2(b)** (with reg. 3)
F9 Words in Sch. 1 para. 1(2) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **6(a)**

2.—(1) Subject to sub-paragraph (2) below, a person’s earnings fact or derived in respect of the year commencing on 6th April 1987, or any subsequent year, from—

(a) those of his earnings paid in that year upon which Class 1 contributions have been paid or treated as paid in respect of that year, and

(b) earnings with which he has been credited in respect of that 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.

3. Where a person’s earnings paid in the year commencing on 6th April 1987, or in any subsequent year, are earnings upon which Class 1 contributions have been paid or treated as paid in respect of that year and are, or are to be, recorded as separate sums in the records of the Department of

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.

4. Where Class 1 contributions have been paid or treated as paid in respect of the year commencing on 6th April 1987, or any subsequent year, upon a person's earnings paid in that year 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, ^{F10}or section 2(4) of the Pensions Act 2014] be increased by the amount of the shortfall, and the amount resulting shall be rounded up to the nearest whole pound.

F10 Words in Sch. 1 para. 4 inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **6(b)**

5.—(1) Subject to sub-paragraphs (2) and (3) below, 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 a person's earnings paid in the year commencing on 6th April 1987, or in any subsequent year, are earnings upon which contracted-out contributions have been paid or treated as paid in respect of that year and are, or are to be, recorded as separate sums in the records of the Department of 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.]

PART II

CLASS 2 AND CLASS 3 CONTRIBUTIONS

8. Subject to the provisions of paragraph 9, the earnings factor derived from a person's Class 2 or Class 3 contributions, being in each case contributions actually paid or contributions paid or credited, in respect of any year shall be that year's lower earnings limit for Class 1 contributions multiplied by the number of the contributions from which the earnings factor is to be derived.

9. Where any earnings factor ascertained by applying the rule contained in paragraph 8 above would not, but for this paragraph, be expressed as a whole number of pounds, it shall be so expressed by the rounding down of any fraction of a pound less than one-half and the rounding up of any other fraction of a pound.

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SCHEDULE 2

Regulation 5

REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>
The Social Security (Earnings Factor) Regulations 1975	S.I. 1975/468
The Social Security (Earnings Factor) Amendment Regulations 1977	S.I. 1977/1706
The Social Security (Earnings Factor) Amendment (No. 2) Regulations 1977	S.I. 1977/1707

EXPLANATORY NOTE

These Regulations are made for the purpose only of consolidating the Regulations hereby revoked and, accordingly, by virtue of section 139(2) of, and paragraph 20 of Schedule 15 to, the Social Security Act 1975, and by virtue of section 61(2) of the Social Security Pensions Act 1975 as amended by section 21(4) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1979, no reference of them has been made either to the National Insurance Advisory Committee or to the Occupational Pensions Board.

The Regulations prescribe rules for deriving from contributions paid, or paid and credited, under the Social Security Act 1975 the earnings factors by reference to which the contributions 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. Provisions is also made for treating as paid or as not repaid contributions by reference to which an earner's guaranteed minimum is calculated under the said Section 35.

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