

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(a), section 35(3) of the Social Security Pensions Act 1975(b) and section 1(5) of the Social Security (Miscellaneous Provisions) Act 1977(c) 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(d) or to the Occupational Pensions Board(e):

(Regulations 1 and 2 as in force for earnings factors for years from 6.4.87 are reproduced immediately below. The corresponding regulations as in force for earnings factors for 1986-87 are reproduced in sanserif type immediately afterwards in square brackets.]

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;



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

“year” means tax year;

Definition of “contributions” omitted by reg. 2(2)(a) of S.I. 1987/411 as from 6.4.87. (See also reg. 3(2)(b) of S.I. 1988/429.)

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

▶(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.◀

Para. added by reg. 2(2)(b) of S.I. 1987/411 as from 6.4.87. (See also reg. 3(2)(b) of S.I. 1988/429.)

(a) 1975 c. 14.
 (b) 1975 c. 60.
 (c) 1977 c. 60.
 (d) See s. 139(2) of, and paragraph 20 of Schedule 15 to, the Social Security Act 1975.
 (e) See s. 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).
 (f) S.I. 1979/591.

Regs. 2-5

Reg. 2 substituted by reg. 2(2) of S.I. 1988/429 as from 4.4.88.

►Ascertainment of earnings factors

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.◄

(Regulations 1 and 2 as in force for earnings factors for 1986–87 (as saved by S.I. 1987/411, reg. . 3) are reproduced in sanserif type below in square brackets.)

[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;

“contributions” means contributions from which, under the Act or by virtue of regulations, an earnings factor is to be derived, and 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;

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

“year” means tax year;

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

Ascertainment of earnings factors

2. The earnings factors derived from a person's contributions in respect of any year shall be ascertained in accordance with the rules contained in Schedule 1 to these regulations.]

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 ►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.

Words in reg. 3 substituted by virtue of art. 3(4) of S.I. 1988/1843 as from 28.11.88.

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

4. For the purposes of ►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.

Revocations

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

18th June 1979

Patrick Jenkin
Secretary of State for Social Services

(a) S.I. 1979/591.

SCHEDULE 1

Regulation 2

RULES FOR THE ASCERTAINMENT OF EARNINGS FACTORS

[Part I of Schedule 1 as in force for earnings factors for years from 6.4.87 is reproduced immediately below. Part I as in force for earnings factors for 1986–87 is reproduced in sanserif type immediately afterwards in square brackets.]

▶¹PART 1

CLASS 1 CONTRIBUTIONS

1.—(1) In this Part of this Schedule—

▶²“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;

“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 ▶²primary◀ Class 1 contributions multiplied by 50; and each paragraph has effect subject to the provisions of all later paragraphs.

(Para. 1 of schedule 1 as in force ascertaining a person’s earnings factors in respect of the year commencing on 6th April 2002 and any preceding year (as saved by S.I. 2003/608 reg. 3) is reproduced in sanserif type below in square brackets.)

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

“Class 1 contributions” means primary Class 1 contributions;
“contracted-out contributions” means primary Class 1 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;

“the standard level” in relation to any year means that year’s lower earnings limit for 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(a) ▶³or 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(b) (earner’s guaranteed minimum).

¹Part I of Schedule 1 substituted, on consolidation, by reg. 3 of S.I. 1991/1165 on 6.6.91; in force as from 6.4.87.

²Defns. of “Class 1 contributions” and “contracted out contributions” substituted and word inserted in defn. of “the standard level” by S.I. 2003/608 as from 6.4.03.

³Words in para. 1(2) of Sch. 1 inserted by art. 6(a) of S.I. 2015/1985 as from 6.4.16.

(a) S. 13(2) was amended by the Social Security Act 1986 (c. 50), Sch. 8, para. 2 and Sch. 10, para. 72(a), and subsection (2)(c) was inserted by the Social Security Pensions Act 1975 (c. 60), Sch. 4, para. 38(a) and amended by the Social Security Act 1986, s. 18(1).

(b) 1975 c. 60; in s. 35, subsection (1) was modified by S.I. 1987/1099, Sch. 3A, para. 2 and by S.I. 1987/1118, reg. 4(4); subsection (2) was amended by the Social Security Act 1986, Sch. 8, para. 8; subsection (3) was substituted by the Social Security Act 1986, s. 9(1); subsection (4) was amended by the Social Security Act 1979 (c. 18), Sch. 3, para. 13; subsection (5) was modified by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), s. 21, by S.I. 1984/380, reg. 44(a) and by S.I. 1987/1118, reg. 4(5), and was amended by the Social Security Act 1979, Sch. 3, para. 18(a) and by the Social Security Act 1988 (c. 7), Sch. 2, para. 1(2) and (3); subsection (6) was amended by the Social Security (Miscellaneous Provisions) Act 1977, s. 3(2); subsections (6A) and (6B) were inserted by the Social Security Act 1986, s. 9(2); subsection (7) was amended by the Social Security Act 1979, Sch. 3, para. 18(b) and by the Social Security Act 1985 (c. 53), Sch. 3, para. 2 and 7, and was modified by S.I. 1984/380, reg. 44(b) and S.I. 1987/1118, reg. 4(6); subsection (8) was amended by the Social Security Act 1985, Sch. 3, Part II, para. 8, and was modified by S.I. 1987/1099, Sch. 3A, para. 3 and S.I. 1987/1118, reg. 4(7); subsection (8A) was inserted by the Social Security Act 1985, Sch. 3, Part II, para. 8.

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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 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 ¹or section 2(4) of the Pensions Act 2014², be increased by the amount of the shortfall, and the amount resulting shall be rounded up to the nearest whole pound.

¹Words in para. 4 to Sch. 1 inserted by art. 6(b) of S.I. 2015/1985 as from 6.4.16.

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 I of Schedule 1 as in force for earnings factors for 1986–87 (as saved by S.I. 1987/411, reg. 3) is reproduced in sanserif type below in square brackets.]

[PART 1

CLASS 1 CONTRIBUTIONS

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 7 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 the year commencing 6th April 1985, and of any year thereafter, shall be—

Para. substituted by reg. 2 of S.I. 1985/1417 as from 6.10.85.

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

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—

Sub-para 2(e)–(f) substituted (29.3.87) by reg. 2 of S.I. 1987/316 for 1986–87 tax year.

- (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 £156;
 - (bb) $\frac{142}{P-Q} + 0.89$, where P—Q is not less than £156 but not greater than £1,290.91;
 - (cc) 1, where P—Q is greater than £1,290.91;
- (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 £127.90;
 - (bb) $\frac{140.2}{P} + 0.88$, where P is not less than £127.90 but not greater than £1,161.82;
 - (cc) 1, where P is greater than £1,161.82;
- (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 £148.18;
 - (bb) $\frac{148.18}{P} + 0.88$, where P is not less than £148.18 but not greater than £1,255.05;
 - (cc) 1, where P is greater than £1,255.05;
- (iv) in relation to such part of any Class 1 contributions 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 £98.80;
 - (bb) $\frac{98.80}{P-Q} + 0.88$, where P-Q is not less than £98.80 but not greater than £177.84;
 - (cc) 1, where P—Q is greater than £177.84;
- (v) in relation to such part of any Class 1 contributions 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 £156;

$$\frac{177.84}{P-Q} + 0.887$$

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- (bb) $\frac{160.06}{P-Q}$, where P—Q is not less than £156 but not greater than £1,290.91;
- (cc) 1, where P—Q is greater than £1,290.91;
- (vi) in relation to such part of any Class 1 contributions 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 £81.02;
- (bb) $\frac{160.06}{P-Q}$, where P—Q is not less than £81.02 but not greater than £160.06;
- (cc) 1, where P—Q is greater than £160.06;
- (vii) in relation to such part of any Class 1 contributions 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 £93.86;
- (bb) $\frac{172.90}{P-Q}$, where P—Q is not less than £93.86 but not greater than £172.90;
- (cc) 1, where P—Q is greater than £172.90;
- (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 £48.48;
- (bb) $\frac{847.06}{Q}$, where Q lies between £48.48 and £847.06;
- (cc) 1, where Q is greater than £847.06;
- (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 £33.05;
- (bb) $\frac{71}{Q} + 0.902$, where Q lies between £33.05 and £724.49;
- (cc) 1, where Q is greater than £724.49;
- (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 £44.20;
- (bb) $\frac{72}{Q} + 0.911$, where Q lies between £44.20 and £808.99;
- (cc) 1, where Q is greater than £808.99;

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 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 ►so however that, ►where, in the case of any two or more separate sums—

- (a) the values to be accorded to F (apart from this paragraph) would fail to be ascertained under the same paragraph of paragraph 2(e) above and
- (b) the values to be accorded to G would fail to be ascertained under the same paragraph of paragraph 2(f) above,

those sums◀ shall be aggregated and the provisions of paragraph 2 above shall apply to the resulting aggregate 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

Words in para. 3 substituted by virtue of art. 3(4) of S.I. 1988/1843 as from 28.11.88.

Words in para. 3 added by reg. 2(3) of S.I. 1985/1417 as from 6.10.85.

Words in para. 3 substituted, for 1985–86 and 1986–87, by Social Security Act 1989 (c.24), s. 4(5), under which this substitution is to be taken always to have had effect.

respect of that year (ascertained by applying the provisions of paragraph 2 or 3 above);
and

(b) $\frac{100C}{R}$, where

(ii) C is the amount of his Class 1 contributions credited in respect of that year;

and

▶(ii) R is the highest of the rates of contributions specified in section 4(6)—(6B) of the Act in force for that year. ◀

Head substituted by reg. 2(4) of S.I. 1985/1417 as from 6.10.85.

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 provisions of paragraphs 2 to 5 above would have the effect that—

- (a) the 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.

▶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

Para. 7(1) substituted (6.10.85) by reg. 2(5) of S.I. 1985/1417.

, 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.◀

(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 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.

Words in para. 7(2) substituted by virtue of art. 3(4) of S.I. 1988/1843 as from 28.11.88.

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

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

(This Note is not part of the Regulations.)

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 to 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 contribution conditions for contributory benefits are expressed in Schedule 3 to that Act, the rate of earnings-related supplement or additional 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. Provision 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.