
 STATUTORY INSTRUMENTS

1979 No. 676

SOCIAL SECURITY

The Social Security (Earnings Factor) Regulations 1979

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

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):—

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(f);

“year” means tax year;

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

(a) 1975 c. 14.

(b) 1975 c. 60.

(c) 1977 c. 5.

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

(e) 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).

(f) S.I. 1979/591.

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 Health and 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.

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

4. For the purposes of paragraph 7 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.

Patrick Jenkin,

Secretary of State for Social Services.

18th June 1979.

SCHEDULE 1

Regulation 2

RULES FOR THE ASCERTAINMENT OF EARNINGS FACTORS

PART I

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 any year shall be $100 \left[\left(\frac{P - Q}{R} \right) + \left(\frac{Q + S1}{R1} \right) \right]$ where

- (a) P is the amount of his Class 1 contributions actually paid in respect of that year;
- (b) S or S1 is the smallest sum required to make the factor $(P - Q) + S$ or $(Q + S1)$ respectively a multiple of 10 pence treating 0 pence for this purpose as being a sum;
- (c) Q is the amount of his contracted-out contributions paid in respect of that year;
- (d) R is—
 - (i) in relation to any Class 1 contributions paid at the rate specified in section 4(6)(a) of the Act, the rate in question in force for that year; and
 - (ii) in relation to any Class 1 contributions paid at the rate so specified as modified by regulations under sections 128 to 132 of the Act, the rate in question as so modified in force for that year; and

- (e) R1 is the rate 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.

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 Health and 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.

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

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

- (i) C is the amount of his Class 1 contributions credited in respect of that year; and
 (ii) R is the rate of contributions specified in section 4(6)(a) of the Act in force for that year.

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) that 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 any year in respect of any contracted-out employment shall be

$$\frac{100(Q + S1)}{R1}, \text{ where—}$$

(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) S1 and R1 have the same meanings as in paragraph 2 above;

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 Health and 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.

(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.

Regulation 5

SCHEDULE 2

REVOCATIONS

Regulations revoked	References
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 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 contribution 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. 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.

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