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STATUTORY INSTRUMENTS

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**2000 No. 2736**

**PENSIONS**

**The Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions) Regulations 2000**

<i>Made</i>	- - - -	<i>5th October 2000</i>
<i>Laid before Parliament</i>		<i>11th October 2000</i>
<i>Coming into force</i>	- -	<i>1st November 2000</i>

The Secretary of State for Social Security in exercise of the powers conferred upon him by sections 48A(5)<sup>M1</sup> and 182(2) and (3) of the Pension Schemes Act 1993<sup>M2</sup> and section 38(5) of the Child Support, Pensions and Social Security Act 2000 and of all other powers enabling him in that behalf, by this instrument, which contains only regulations in consequence of section 38 of the Child Support, Pensions and Social Security Act 2000<sup>M3</sup>, makes the following Regulations:

**Marginal Citations**

- M1** [Section 48A](#) was inserted by section 140(1) of the [Pensions Act 1995 \(c. 26\)](#) and amended by section 38 of the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#).
- M2** [1993 c. 48](#).
- M3** See section 185(2)(e) of the Pension Schemes Act 1993 under which the requirement to consult does not apply to regulations made in consequence of a specified enactment and which are made within 6 months of the coming into force of that enactment.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions) Regulations 2000 and shall come into force on 1st November 2000.

(2) For the purpose of these Regulations, including this regulation,—

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992<sup>M4</sup>;

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

“the 2000 Act” means the Child Support, Pensions and Social Security Act 2000; and

“relevant pension” has the meaning given to it in section 38(6) of the 2000 Act.

### Marginal Citations

M4 1992 c. 4.

### Modification of the application of section 44(5A) of the 1992 Act

2.—(1) Where, by virtue of subsection (1) of section 48A of the 1993 Act, section 44(6) of the 1992 Act has effect for the tax year 2000–01 or any later tax year, in relation to some but not all of the earnings of an earner, the application of section 44(5A) of the 1992 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 [<sup>F1</sup>was reduced] under section 41 [<sup>F2</sup>(as it then had effect)] or 42A of the 1993 Act <sup>M5</sup> (reduced rates of Class 1 contributions for earners in contracted-out employment) section 44(5A) of the 1992 Act is modified so that the qualifying earnings factor for the purposes of paragraph (a) of that section shall be calculated by applying the formula—

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

where—L is the weekly lower earnings limit for that year; and

N is the number of tax weeks in that year in which a Class 1 contribution for the earner [<sup>F1</sup>was reduced] in accordance with sections 41 [<sup>F3</sup>(as it then had effect)] or 42A of the 1993 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 1993 Act <sup>M6</sup> (minimum contributions towards appropriate personal pension schemes) section 44(5A) of the 1992 Act is modified so that the qualifying earnings factor for the purposes of paragraph (a) of that section shall be zero.

### Textual Amendments

- F1** Words in reg. 2(2) substituted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **18(a)**
- F2** Words in reg. 2(2) inserted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **18(b)**
- F3** Words in reg. 2(2) inserted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **18(c)**

### Marginal Citations

**M5** Section 41(1) was substituted by section 137(2) of the Pensions Act 1995 and amended by paragraph 127 of Schedule 7 to the [Social Security Act 1998 \(c. 14\)](#) and paragraph 6(2) and (3) of Schedule 9 to the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#). Section 42A was inserted by section 137(5) of the Pensions Act 1995 and amended by paragraph 128 of Schedule 7 to the Social Security Act 1998, paragraph 7(2) and (3) of Schedule 9 to the Welfare Reform and Pensions Act 1999 and paragraph 46 of Schedule 1 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#).

**M6** Section 45(1) was substituted by section 138(2) of the Pensions Act 1995 and amended by paragraph 47 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

### **Revision of relevant pensions**

**3.**—(1) Where, by virtue of section 38(3) of the 2000 Act any relevant pension has been calculated by reference to section 44(5) of the 1992 Act as modified by regulations under section 48A(5) of the 1993 Act, the calculation of that pension shall be revised by applying the formula set out in regulation 2(2) above.

(2) Any relevant pension revised in accordance with this regulation shall be paid at the revised amount.

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

*P. Hollis*  
Parliamentary Under-Secretary of State,  
Department of Social Security

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions) Regulations 2000. (See end of Document for details)

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## EXPLANATORY NOTE

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

The Regulations contained in this instrument are made before the end of the period of six months beginning with the coming into force of section 38 of the Child Support, Pensions and Social Security Act 2000 (c.19) and are made in consequence of that Act.

Regulation 2 modifies the application of section 44(5A) of the Social Security Contributions and Benefits Act 1992 which determines the amount of a Category A retirement pension by reference to a qualifying earnings factor calculated by multiplying the weekly lower earnings limit for a year by 52. The modification applies in relation to an earner who has earnings in a tax year beginning on, or after, 6th April 2000, part of which are in respect of contracted-out employment and part of which are not. It also applies to an earner in respect of whom minimum contributions are paid for part of such a tax year. The calculation of the qualifying earnings factor is modified in such cases by multiplying the weekly lower earnings limit for the relevant year by 52 less the number of weeks of contracted-out employment.

Regulation 3 provides that a relevant pension calculated in accordance with section 44(5) of the Social Security Contributions and Benefits Act 1992 as modified under section 48A of the Pension Schemes Act 1993, is to be revised using the formula set out in Regulation 2 and paid in accordance with the revised calculation.

These Regulations do not impose any costs on business.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions) Regulations 2000.