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STATUTORY INSTRUMENTS

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**2003 No. 2175**

**SOCIAL SECURITY, NORTHERN IRELAND**

**The State Pension Credit (Amendment)  
(Northern Ireland) Regulations 2003**

<i>Made</i>	- - - -	<i>21st August 2003</i>
<i>Laid before Parliament</i>		<i>22nd August 2003</i>
<i>Coming into force</i>	- -	<i>6th October 2003</i>

The Treasury, with the concurrence of the Department for Social Development<sup>(1)</sup>, in exercise of the powers conferred upon them by sections 3(2) and 171(3) to (5) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(2)</sup>, and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the State Pension Credit (Amendment) (Northern Ireland) Regulations 2003 and shall come into force on 6th October 2003.

**Interpretation**

2. In these Regulations “the principal Regulations” means the State Pension Credit Regulations (Northern Ireland) 2003<sup>(3)</sup> and “regulation” means a regulation of the principal Regulations.

**Amendments to the principal Regulations**

3. Amend the principal Regulations as follows.

4. In regulation 1(2) (interpretation), after the definition of “close relative”, insert—

““the Computation of Earnings Regulations” means the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996<sup>(4)</sup>.”

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(1) The functions of the Department of Health and Social Services for Northern Ireland under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) were transferred to the Department for Social Development by Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481).

(2) Section 3(2) was amended by paragraph 4 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) (“the Transfer Order”). Section 171(10) was substituted by paragraph 28(3) of Schedule 3 to the Transfer Order.

(3) S.R. 2003 No. 28.

(4) S.R. 1996 No. 520; relevant amending Rules are S.R. 1999 No. 472 (C.36) and S.R. 2002 No. 323.

5. After regulation 17, insert—

**“Earnings of employed earners**

**17A.**—(1) For the purposes of state pension credit, the provisions of this regulation which relate to the earnings of employed earners, shall have effect in place of those prescribed for such earners in the Computation of Earnings Regulations.

(2) Subject to paragraphs (3), (4) and (5), “earnings” in the case of employment as an employed earner, means any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
  - (c) any payment in lieu of notice;
  - (d) any holiday pay;
  - (e) any payment by way of a retainer;
  - (f) any payment made by the claimant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant’s employer in respect of—
    - (i) travelling expenses incurred by the claimant between his home and place of employment,
    - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
  - (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person’s earnings in accordance with Part V of Schedule 3 to the Social Security (Contributions) Regulations 2001<sup>(5)</sup>;
  - (h) statutory sick pay and statutory maternity pay payable by the employer under the Contributions and Benefits Act;
  - (i) statutory paternity pay payable under Part XIIZA<sup>(6)</sup> of the Contributions and Benefits Act;
  - (j) statutory adoption pay payable under Part XIIZB<sup>(7)</sup> of the Contributions and Benefits Act;
  - (k) any sums payable under a contract of service—
    - (i) for incapacity for work due to sickness or injury, or
    - (ii) by reason of pregnancy or confinement.
- (3) “Earnings” shall not include—
- (a) subject to paragraph (4), any payment in kind;
  - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
  - (c) any occupational pension;

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<sup>(5)</sup> S.I. 2001/1004; relevant amending Instruments are S.I. 2001/2412 and S.I. 2002/307.

<sup>(6)</sup> Part XIIZA was inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)).

<sup>(7)</sup> Part XIIZB was inserted by Article 6 of the Employment (Northern Ireland) Order 2002.

- (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme<sup>(8)</sup>;
  - (e) any payment of compensation made pursuant to an award by an employment tribunal in respect of unfair dismissal or unlawful discrimination.
- (4) Paragraph (3)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (2)(g).
- (5) One half of any sum paid by a claimant by way of a contribution towards an occupational pension scheme or a personal pension scheme shall, for the purpose of calculating his earnings in accordance with this regulation, be disregarded.
- (6) In this regulation “employed earner” means a person who is gainfully employed in Northern Ireland, or the Republic of Ireland, either under a contract of service, or in an office (including elective office) with general earnings which are chargeable to income tax under the employment income Parts of the Income Tax (Earnings and Pensions) Act 2003<sup>(9)</sup> or, as the case may be, chargeable under the legislation of the Republic of Ireland which is analogous to those Parts.

#### **Earnings of self-employed earners**

**17B.**—(1) For the purposes of state pension credit, the provisions of the Computation of Earnings Regulations in their application to the earnings of self-employed earners, shall have effect in so far as provided by this regulation.

(2) In their application to state pension credit, regulations 11 to 14 of the Computation of Earnings Regulations<sup>(10)</sup> shall have effect as if—

- (a) “board and lodging accommodation” had the same meaning as in paragraph 8(2) of Schedule 4;
  - (b) “claimant” referred to a person claiming state pension credit and any partner of the claimant;
  - (c) “personal pension scheme” referred to a personal pension scheme—
    - (i) as defined in section 1 (categories of pension schemes) of the Pension Schemes Act 1993<sup>(11)</sup>, or
    - (ii) as defined in section 1 (categories of pension schemes) of the Pension Schemes (Northern Ireland) Act 1993<sup>(12)</sup>.
- (3) In regulation 11 (calculation of earnings of self-employed earners), paragraph (1) shall have effect, but as if the words “Except where paragraph (2) applies” were omitted.
- (4) In regulation 12 (earnings of self-employed earners)—
- (a) paragraph (1) shall have effect;
  - (b) for paragraph (2), the following provision shall have effect—

“(2) Earnings does not include—

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<sup>(8)</sup> See regulation 4 of, and the Schedule to, the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) (Amendment) Regulations 1996 (S.I. 1996/3182).

<sup>(9)</sup> 2003 c. 1.

<sup>(10)</sup> Relevant amending Rules are Article 14 of S.R. 1999 No. 472 (C.36) and paragraph 1(p) of the Schedule to S.R. 2002 No. 323.

<sup>(11)</sup> 1993 c. 48; in section 1 the definition of “personal pension scheme” was amended by paragraph 3(1) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>(12)</sup> 1993 c. 49; in section 1 the definition of “personal pension scheme” was amended by paragraph 2(1) of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

- (a) where a claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
  - (b) any payment made by an authority to a claimant with whom a person is accommodated by virtue of arrangements made under Article 27(2) (a) of the Children (Northern Ireland) Order 1995<sup>(13)</sup> (provision of accommodation and maintenance for a child whom they are looking after);
  - (c) any payment made by a voluntary organisation in accordance with Article 75(1)(a) of that Order (provision of accommodation by voluntary organisations);
  - (d) any payment made to the claimant or his partner for a person (“the person concerned”) who is not normally a member of the claimant’s household but is temporarily in his care, by—
    - (i) an authority,
    - (ii) a voluntary organisation,
    - (iii) the person concerned pursuant to Article 36(7) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(14)</sup>;
  - (e) any sports award being an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993<sup>(15)</sup> out of sums allocated to it for distribution under that section;
  - (f) in sub-paragraph (d)(i) “an authority” has the same meaning as in Article 2 of the Children (Northern Ireland) Order 1995.”.
- (5) In regulation 13 (calculation of net profit of self-employed earners)—
- (a) for paragraphs (1) to (3), the following provision shall have effect—
 

“**13.**—(1) For the purposes of regulation 11 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

    - (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
    - (b) in the case of a self-employed earner whose employment is carried on in partnership, his share of the net profit derived from that employment less—
      - (i) an amount in respect of income tax and of social security contributions payable under the Contributions and Benefits Act calculated in accordance with regulation 14 (deduction of tax and contributions for self-employed earners), and
      - (ii) one half of any premium paid in the period that is relevant under regulation 11 in respect of a retirement annuity contract or a personal pension scheme.”; and

(b) paragraphs (4) to (12) shall have effect.
- (6) Regulation 14 (deduction of tax and contributions for self-employed earners) shall have effect.”.

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<sup>(13)</sup> S.I. 1995/755 (N.I. 2).

<sup>(14)</sup> S.I. 1972/1265 (N.I. 14); Article 36 was substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)). There are amendments which are not relevant for the purposes of this instrument.

<sup>(15)</sup> 1993 c. 39.

21st August 2003

*Joan Ryan*  
*Jim Murphy*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

The Department for Social Development hereby concurs. Sealed with the Official Seal of the Department for Social Development on 7th August 2003.

L.S.

*John O'Neill*  
Senior Officer of the  
Department for Social Development

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations make amendments to the State Pension Credit Regulations (Northern Ireland) 2003 (S.R. 2003 No. 28) (“the principal Regulations”).

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 introduces the amendments to the principal Regulations made by regulations 4 and 5.

Regulation 4 inserts a new definition of “the Computation of Earnings Regulations” in regulation 1(2) of the principal Regulations.

Regulation 5 inserts new regulations 17A and 17B in the principal Regulations providing for the meaning and calculation of “earnings” of employed earners and self-employed earners respectively for the purposes of state pension credit.

These Regulations do not impose any costs on business.