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STATUTORY INSTRUMENTS

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**2007 No. 2613**

**SOCIAL SECURITY**

**The Social Security Benefit (Computation of Earnings) (Amendment) Regulations 2007**

*Made - - - - 7th September 2007*  
*Laid before Parliament 10th September 2007*  
*Coming into force in accordance with regulation 1*

The Treasury, in exercise of the powers conferred upon them by sections 3(2) and (3) and 175(1), (1A), (3) and (4) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>, with the concurrence of the Secretary of State for Work and Pensions, makes the following Regulations.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Benefit (Computation of Earnings) (Amendment) Regulations 2007.

(2) This regulation and regulation 2(1) and (5) shall come into force on 1st October 2007.

(3) Paragraphs (2) and (3) of regulation 2, in so far as they relate to a particular beneficiary, shall come into force on the first day of the first benefit week to commence for that beneficiary on or after 1st October 2007.

(4) Regulation 2(4), in so far as it relates to a particular beneficiary, shall come into force on the first day of the first benefit week to commence for that beneficiary on or after 7th April 2008.

(5) In these Regulations—

“benefit week” has the meaning given in regulation 2(1) of the Computation of Earnings Regulations;

“the Computation of Earnings Regulations” means the Social Security Benefit (Computation of Earnings) Regulations 1996<sup>(2)</sup>.

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(1) 1992 c.4. Section 3(2) was amended, and the power to make regulations under it transferred to the Treasury, by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Paragraph 29 of Schedule 3 to that Act amended paragraphs (1) and (4), and inserted paragraph (1A), of section 175. Section 175(1A) was subsequently amended by Schedule 6 to the Tax Credits Act 2002 (c.21).

(2) S.I. 1996/2745.

## Amendment of the Computation of Earnings Regulations

- 2.—(1) The Computation of Earnings Regulations are amended as follows.
- (2) In regulation 12 (earnings of self-employed earners)<sup>(3)</sup>—
- (a) in paragraph (1), omit “Subject to paragraph (2),”;
  - (b) omit paragraph (2).
- (3) In regulation 13 (calculation of net profit of self-employed earners)<sup>(4)</sup>, after paragraph (6) (f) add—
- “(g) where the claimant provides accommodation to another person in the dwelling the claimant occupies as his home, any expenses defrayed by the claimant in providing the accommodation to that person (including any defrayed in providing board as well as lodging).”.
- (4) In Schedule 1 (sums to be disregarded in the calculation of earnings), for paragraph 2(a) and (b) substitute—
- “(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of that dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
  - (b) where the aggregate of any such payments is £20 or more per week, £20.”;
- (5) Also in Schedule 1, after paragraph 11 add—
- “**12.**—(1) Any earnings, other than items to which sub-paragraph (2) applies, paid or due to be paid from the claimant’s employment as an employed earner which ended before the day in respect of which the claimant first satisfies the conditions for entitlement to the benefit, pension or allowance to which the claim relates.
- (2) This sub-paragraph applies to—
- (a) any payment by way of occupational or personal pension; and
  - (b) except in a case where the claimant’s employment terminated by reason of retirement at a time when he had attained pensionable age (within the meaning given by rules in paragraph 1 of Schedule 4 to the Pensions Act 1995)<sup>(5)</sup>—
    - (i) any payment or remuneration of the nature described in regulation 9(1)(e) or (j), and
    - (ii) any award or sum of the nature described in regulation 9(1)(g) or (h) (including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings).
- (3) Sub-paragraph (1) is subject to the following provisions.
- (4) Sub-paragraph (1) does not apply in relation to a claim for, or an award of, incapacity benefit (within the meaning given by paragraph 11 of Schedule 4 to the Welfare Reform Act 2007)<sup>(6)</sup> or severe disablement allowance (also within the meaning given by that paragraph).
- (5) Sub-paragraph (1) applies in relation to a claim for an increase in benefit under Part IV of the Contributions and Benefits Act (increases in respect of dependants) only in a case where—

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(3) Regulation 12 was amended by [S.I. 2002/2469](#) and was modified in relation to state pension credit by [S.I. 2002/1792](#).

(4) Regulation 13 was amended by [S.I. 1999/3178](#) and [2002/2823](#) and was modified in relation to state pension credit by [S.I. 2002/1792](#).

(5) [1995 c.26](#).

(6) [2007 c.5](#).

- (a) the spouse or partner or other adult in respect of whom that claim is made was in employment as an employed earner, but
- (b) that employment ended before the day referred to in sub-paragraph (1).”.

7th September 2007

*Dave Watts*  
*Steve McCabe*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

The Secretary of State for Work and Pensions concurs.

3rd September 2007

*Bill McKenzie*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

**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 amend the Social Security (Computation of Earnings) Regulations 1996.

Regulation 2(2) amends regulation 12 to remove the provision which disregards as earnings of a self-employed earner certain payments received in connection with the provision of accommodation by the claimant. These payments will be disregarded from a claimant's net profit under regulation 13(2) (a).

Regulation 2(3) amends regulation 13 to provide that there will be no deduction of expenses from a self-employed earner's net profit in respect of any expenses incurred in connection with the provision of accommodation by the claimant to another person in the dwelling that the claimant occupies as his home.

Regulation 2(4) amends Schedule 1 to provide a disregard of £20 per week in respect of payments received from a sub-tenancy arrangement. Where the payments are less than £20 per week, the disregard will be the whole of the payments. Previously, the regulations provided for a basic disregard and a further disregard where the payments included an amount for heating.

Regulation 2(5) also amends Schedule 1 to provide that where a claimant's employment as an employed earner ends before the claimant becomes entitled to certain benefits, payments made in respect of that employment (with some exceptions) will be disregarded in the calculation of the claimant's earnings.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities and voluntary bodies.