

2009 No. 111

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment) Regulations
2009**

<i>Made</i> - - - -	<i>28th January 2009</i>
<i>Laid before Parliament</i>	<i>28th January 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners").

The powers exercised by the Treasury are conferred by sections 5(4), (5) and (6), 122(1), (6A) and (6B) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(4), (5) and (6), 121(1) and 171(3), (4) and (10) of the Social Security Contributions and Benefits Act (Northern Ireland) Act 1992(b).

The powers exercised by the Commissioners are conferred by paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992(c) and paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(d).

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment) Regulations 2009 and shall come into force on 6th April 2009.

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- (a) 1992 c. 4. Section 5 was substituted by paragraph 1 of Schedule 9 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 122(1) is cited because of the meaning given to "prescribe". Sub-sections (6A) and (6B) of section 122 were inserted by the National Insurance Contributions Act 2008 (c. 16). Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).
- (b) 1992 c. 7. Section 5 was substituted by paragraph 1 of Schedule 10 to the Welfare Reform and Pensions Act 1999. Section 121(1) is cited because of the meaning given to "prescribe". Section 171(10) was substituted by paragraph 28(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).
- (c) The relevant amendments to paragraph 6 of Schedule 1 were made by paragraph 77(8) of Schedule 7 to the Social Security Act 1998 (c.14), paragraph 35 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and paragraph 185 of Schedule 6 to the Income (Earnings and Pensions) Act 2003 (c.1). The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Inland Revenue, however expressed, shall be taken as a reference to the Commissioners of Her Majesty's Revenue and Customs.
- (d) The relevant amendments to paragraph 6 of Schedule 1 were made by paragraph 58(8) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I.1998/1506), paragraph 34 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Northern Ireland Order 1999 (S.I. 1999/671) and paragraph 204 of Schedule 6 to the Income (Earnings and Pensions) Act 2003. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005. Section 50(1) of that Act provides that a reference to the Commissioners of Inland Revenue, however expressed, shall be taken as a reference to the Commissioners of Her Majesty's Revenue and Customs.

Amendment of the Social Security (Contributions) Regulations 2001

2. The Social Security (Contributions) Regulations 2001(a) are amended as follows.

3.—(1) Amend regulation 11 (prescribed equivalents) as follows.

(2) In paragraph (1)—

(a) at the end of sub-paragraph (a) omit “and”;

(b) after sub-paragraph (a) insert—

“(aa) section 22 of the Act (earnings factors)(b); and”;

(c) for sub-paragraph (b) substitute—

“(b) sections 41(1) (reduced rates of Class 1 contributions), 42A(1) (reduced rates of Class 1 contributions and rebates) and 45(1) (amount of minimum contributions) of the Pensions Act(c);”.

(3) After paragraph (1) insert—

“(1A) The prescribed equivalents of the upper accrual point(d) for the purposes of—

(a) section 22 of the Act (earnings factors); and

(b) sections 41(1) (reduced rates of Class 1 contributions), 42A(1) (reduced rates of Class 1 contributions and rebates) and 45(1) (amount of minimum contributions) of the Pensions Act,

shall be determined in accordance with paragraphs (2), (4) and (5).”.

(4) In paragraph (2) for the introductory words and sub-paragraph (a) substitute—

“(2) Subject to paragraphs (4) and (5), the prescribed equivalents of the lower earnings limit and the upper accrual point shall be—

(a) where the earnings period is a multiple of a week, the amounts calculated by multiplying the lower earnings limit or the upper accrual point (“the weekly limits”) by the corresponding multiple;”.

(5) After paragraph (2) insert—

“(2A) Subject to paragraphs (4) and (5), the prescribed equivalents of the upper earnings limit shall be—

(a) where the earnings period is a month, £3,656;

(b) where the earnings period is a year, £43,875;

(c) where the earnings period is a multiple of a week, the amount calculated by dividing the figure in sub-paragraph (b) by 52 and multiplying the result by the corresponding multiple;

(d) where the earnings period is a multiple of a month, the amount calculated by dividing the figure in sub-paragraph (b) by 12 and multiplying the result by the corresponding multiple;

(e) in any other case, the amount calculated by dividing the figure in sub-paragraph (b) by 365 and multiplying the result by the number of days in the earnings period concerned.”.

(a) S.I. 2001/1004. The relevant amending instruments are S.I. 2003/193 and S.I. 2004/770.

(b) Section 22 of the Social Security Contributions and Benefits Act 1992 Act was amended by the Pensions Act 2007 (c.22) to refer to the upper accrual point. Section 22 was then amended by section 3(2) of the National Insurance Contributions Act 2008 (c.16) to introduce the upper accrual point for the tax year 2009-10 and subsequent years and also by paragraph 2 of Schedule 1 to that Act to include a reference to “the prescribed equivalent”.

(c) Section 41(1) of the Pension Schemes Act 1993 (c. 48) (“the 1993 Act”) was amended by paragraph 37 to Schedule 1 to the Pensions Act 2007. Section 41, 42A and 45 of the 1993 Act were amended by paragraphs 10, 11 and 12 of Schedule 1 to the National Insurance Contributions Act 2008 to refer to the upper accrual point.

(d) The term “upper accrual point” is defined in section 122 of the Social Security Contributions and Benefits Act 1992. This term was introduced by section 12 of the Pensions Act 2007 and the definition of upper accrual point was amended by section 3(4) of the National Insurance Contributions Act 2008.

(6) Amend paragraph (3)(a) as follows—

- (a) in sub-paragraph (a) for “£453” substitute “£476”; and
- (b) in sub-paragraph (b) for “£5,435” substitute “£5,715”.

(7) For paragraph (4) substitute—

“(4) The amounts determined in accordance with paragraphs (2)(b) and (c), paragraph (2A)(c) and (d) and paragraph (3)(c) and (d) if not whole pounds, shall be rounded up to the next whole pound.”.

(8) In paragraph (5) for “paragraph (2)(d) and paragraph (3)(e)” substitute “paragraph (2)(d), paragraph (2A)(e) and paragraph (3)(e)”.

(9) After paragraph (5) insert—

“(6) The following provisions of this regulation do not apply to Northern Ireland—

- (a) paragraph (1A), and
- (b) both references to “the upper accrual point” in paragraph (2), so that the term “the weekly limits” shall be read as referring only to the lower earnings limit in relation to Northern Ireland.”.

4.—(1) Amend Schedule 4 (provisions derived from the Income Tax Acts and the Income Tax (Pay As You Earn) Regulations 2003) as follows.

(2) In paragraph 7(13)(b) (calculation of deduction)—

- (a) in paragraph (iii) for “current upper earnings limit” substitute “upper accrual point”, and
- (b) after paragraph (iii) insert—
 - “(iiia) earnings which exceed the upper accrual point but do not exceed the current upper earnings limit,”.

(3) In paragraph 9(1) (certificate of contributions paid)—

- (a) in paragraph (c) for “current upper earnings limit” substitute “upper accrual point”, and
- (b) after paragraph (c) insert—
 - “(ca) the amount of any earnings in respect of which primary Class 1 contributions were payable which exceed the upper accrual point but do not exceed the current upper earnings limit, other than earnings from non-contracted-out employment in respect of which primary Class 1 contributions were payable at the reduced rate;”.

(4) In paragraph 22(1)(c)(i) (return by employer at end of year) for “(iii)” substitute “(iiia)”.

Tony Cunningham

Dave Watts

28th January 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

Dave Hartnett

Mike Eland

28th January 2009

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) Regulation 11(3) was amended by regulation 4 of S.I. 2008/133; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004; “the principal Regulations”) in three main ways. They—

- amend the manner in which the prescribed equivalents of the upper earnings limit (“UEL”) are calculated so as to bring their calculation into line with the calculation of the prescribed equivalents of the primary and secondary thresholds and accordingly the prescribed equivalent of the UEL where the earnings period is a month is £3,656 and where the earnings period is a year is £43,875;
- amend the prescribed equivalents of the primary and secondary thresholds so that where the earnings period is a month the threshold is £476 and where the earnings period is a year the threshold is £5,715; and
- reflect the changes made by the Pensions Act 2007 (c. 22) and the National Insurance Contributions Act 2008 (c. 16) (“the 2008 Act”) as regards the upper accrual point. The upper accrual point was introduced by the 2008 Act for the tax year 2009-10 and subsequent years. It replaces the upper earnings limit in respect of limiting the amount of earnings on which a contracted-out rebate or minimum contribution is payable and which are taken into account in calculating earnings factors for the purposes of the state second pension.

Regulation 2 introduces the changes made to the principal Regulations.

Regulation 3 amends regulation 11 of the principal Regulations so as to—

- refer to section 22 of the Social Security Contributions and Benefits Act 1992 (c. 4) to reflect the amendment made to sub-section (9) of that section by the 2008 Act. It is also amended to include a reference to section 45(1) of the Pensions Schemes Act 1993 (c.48) which had been inadvertently omitted from regulation 11,
- insert a new paragraph (1A) in regulation 11 of the principal Regulations to determine the prescribed equivalents of the upper accrual point where a person’s earnings period is other than a week,
- insert a new paragraph (6) which provides that paragraph (1A) and both the references to the “upper accrual point” in paragraph (2) of regulation 11 do not apply to Northern Ireland,
- remove references to determining the upper earnings limit for prescribed equivalents in paragraph (2) of the principal Regulations and sets the new prescribed equivalents of the upper earnings limit by way of the amendment introduced in new paragraph (2A) of regulation 11 of the principal Regulations, and
- provide for the equivalents of the primary and secondary thresholds where the earnings period is a month or a year.

Regulation 5 amends paragraph 7 of Schedule 4 to the principal Regulations so, in addition to providing the other information required, an employer must record on the deductions working sheet (Form P11)—

- the earnings which exceed the current primary threshold and the current secondary threshold but do not exceed the upper accrual point, and
- the earnings which exceed the upper accrual point but do not exceed the current upper earnings limit.

Regulation 5 also amends paragraph 9 of Schedule 4 to the principal Regulations to ensure that this information is included in the certificate given by employers to employees (Form P60) and makes an amendment to paragraph 22 of that Schedule to ensure that this information is also included in the employers’ end of year summary (Form P14).

A full impact assessment has not been produced for the amendments contained in sub-paragraphs (5) to (8) of regulation 3 as no impact on the private or voluntary sector is foreseen. No impact assessment has been produced for the rest of this instrument as there was a full impact assessment prepared for the Bill which became the National Insurance Contributions Act 2008. That impact assessment, which included an analysis of the impact of the changes made by this instrument, of the effect that the legislation will have on the costs of business and the voluntary sector is available at <http://www.hmrc.gov.uk/ria/nics-bill-ia.pdf> and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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STATUTORY INSTRUMENTS

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