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STATUTORY INSTRUMENTS

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**1991 No. 1165**

**SOCIAL SECURITY**

**The Social Security (Earnings Factor)  
Amendment Regulations 1991**

<i>Made</i>	- - - -	<i>7th May 1991</i>
<i>Laid before Parliament</i>		<i>16th May 1991</i>
<i>Coming into force</i>	- -	<i>6th June 1991</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 13(5) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(1) and sections 6(5A) and 35(3) of the Social Security Pensions Act 1975(2) and sections 84(1) and 89(1) of the Social Security Act 1986(3) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that the proposals to make these Regulations should not be referred to it(4) and after consultation with the Occupational Pensions Board(5), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Earnings Factor) Amendment Regulations 1991 and shall come into force on 6th June 1991.

**Amendment of Regulation 4**

2. In regulation 4 of the Social Security (Earnings Factor) Regulations 1979(6) for the reference "paragraph 7" there shall be substituted the reference "paragraph 5".

**Amendment of Schedule**

3. For Part I of Schedule 1 to the Social Security (Earnings Factor) Regulations 1979 there is hereby substituted the Part I contained in the Schedule to these Regulations.

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- (1) 1975 c. 14, section 13(5) was amended by the Social Security Act 1979 (c. 18), Schedule 3, paragraph 5, the Social Security Act 1986 (c. 50), Schedule 8, paragraph 2, the Social Security Act 1988(c.7), Schedule 2, paragraph 1(1)(a) and (3), and see paragraph 1(1)(b). Schedule 20 is cited because of the meaning ascribed to the word section 168(1) applies, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c. 60), to the exercise of certain powers conferred by that Act.
- (2) 1975 c. 60; section 6(5A) was inserted by the Social Security Act 1985 (c. 53), Schedule 5, paragraph 16(b), and section 35(3) was substituted by the Social Security Act 1986, section 9(1).
- (3) 1986 c. 50; section 84(1) is cited because of the meaning ascribed to the word
- (4) See section 61(1)(b) of the Social Security Act 1986.
- (5) See section 61(2) of the Social Security Pensions Act 1975.
- (6) S.I. 1979/676, which was amended by S.I. 1985/1417, 1987/316, 411, 1988/429.

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## **Revocation**

**4.** Regulation 2(3) of the Social Security (Earnings Factor) Amendment Regulations 1988(7) is hereby revoked.

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

7th May 1991

*Nicholas Scott*  
Minister of State,  
Department of Social Security

## SCHEDULE

Regulation 3

### PART I OF SCHEDULE 1 (RULES FOR THE ASCERTAINMENT OF EARNINGSFACTORS) TO THE SOCIAL SECURITY (EARNINGS FACTOR) REGULATIONS 1979 ASSUBSTITUTED BY THESE REGULATIONS

## PART I

### CLASS 1 CONTRIBUTIONS

**1.—**(1) In this Part of this Schedule—

“Class 1 contributions” means primary Class 1 contributions;

“contracted-out contributions” means primary Class 1 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;

“the standard level” in relation to any year means that year’s lower earnings limit for Class 1 contributions multiplied by 50; and

each paragraph has effect subject to the provisions of all later paragraphs.

(2) Paragraphs 2, 3 and 4 below shall apply for the purposes specified in section 13(2) of the Act(8), and paragraph 5 below for the purposes of section 35 of the Social Security Pensions Act 1975(9) (earner’s guaranteed minimum).

**2.—**(1) Subject to sub-paragraph (2) below, a person’s earnings factor derived in respect of the year commencing on 6th April 1987, or any subsequent year, from—

(a) those of his earnings paid in that year upon which Class 1 contributions have been paid or treated as paid in respect of that year, and

(b) earnings with which he has been credited in respect of that year, shall be equal to the amount of those actual and credited earnings.

(2) Any earnings factor ascertained under sub-paragraph (1) above shall be rounded down to the nearest whole pound.

**3.** Where a person’s earnings paid in the year commencing on 6th April 1987, or in any subsequent year, are earnings upon which Class 1 contributions have been paid or treated as paid in respect of that year and are, or are to be, recorded as separate sums in the records of the Department of Social Security, the earnings factor derived from those earnings shall be equal to the aggregate of the amounts ascertained by rounding down each sum separately to the nearest whole pound.

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(8) Section 13(2) was amended by the Social Security Act 1986 (c. 50), Schedule 8, paragraph 2 and Schedule 10, paragraph 72(a), and subsection (2)(c) was inserted by the Social Security Pensions Act 1975 (c. 60), Schedule 4, paragraph 38(a) and amended by the Social Security Act 1986, section 18(1).

(9) 1975 c. 60; in section 35, subsection (1) was modified by S.I. 1987/1099, Schedule 3A, paragraph 2 and by S.I. 1987/1118, regulation 4(4); subsection (2) was amended by the Social Security Act 1986, Schedule 8, paragraph 8; subsection (3) was substituted by the Social Security Act 1986, section 9(1); subsection (4) was amended by the Social Security Act 1979 (c. 18), Schedule 3, paragraph 13; subsection (5) was modified by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 21, by S.I. 1984/380, regulation 44(a) and by S.I. 1987/1118, regulation 4(5), and was amended by the Social Security Act 1979, Schedule 3, paragraph 18(a) and by the Social Security Act 1988 (c. 7), Schedule 2, paragraph 1(2) and (3); subsection (6) was amended by the Social Security (Miscellaneous Provisions) Act 1977, section 3(2); subsections (6A) and (6B) were inserted by the Social Security Act 1986, section 9(2); subsection (7) was amended by the Social Security Act 1979, Schedule 3, paragraph 18(b) and by the Social Security Act 1985 (c. 53), Schedule 3, paragraphs 2 and 7, and was modified by S.I. 1984/380, regulation 44(b) and S.I. 1987/1118, regulation 4(6); subsection (8) was amended by the Social Security Act 1985, Schedule 3, Part II, paragraph 8, and was modified by S.I. 1987/1099, Schedule 3A, paragraph 3 and S.I. 1987/1118, regulation 4(7); subsection (8A) was inserted by the Social Security Act 1985, Schedule 3, Part II, paragraph 8.

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4. Where Class 1 contributions have been paid or treated as paid in respect of the year commencing on 6th April 1987, or any subsequent year, upon a person's earnings paid in that year and, but for this paragraph, the ascertainment of any earnings factor of his in respect of such year by the application of paragraphs 2 or 3 above would have the effect that—

- (a) his earnings factor derived from those earnings, or
- (b) the aggregate of his earnings factors derived from those earnings, and any earnings credited in respect of the same year, together with any derived from Class 2 or Class 3 contributions paid or credited in that year

would fall short of—

- (i) the qualifying earnings factor, by an amount not exceeding £50, or
- (ii) the standard level, by an amount not exceeding £50, or
- (iii) one-half of the standard level, by an amount not exceeding £25,

the amount of that earnings factor as so ascertained shall, for the purpose 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 nearest whole pound.

5.—(1) Subject to sub-paragraphs (2) and (3) below, a person's earnings factor derived in respect of the year commencing on 6th April 1987, or any subsequent year, from those of his earnings in contracted-out employment upon which contracted-out contributions have been paid, or treated as paid, in respect of such year, shall be equal to the amount of those earnings.

(2) Any earnings factor ascertained under sub-paragraph (1) above shall be rounded down to the nearest whole pound.

(3) Where a person's earnings paid in the year commencing on 6th April 1987, or in any subsequent year, are earnings upon which contracted-out contributions have been paid or treated as paid in respect of that year and are, or are to be, recorded as separate sums in the records of the Department of Social Security, the earnings factor derived from those earnings shall be equal to the aggregate of the amounts ascertained by rounding down each sum separately to the nearest whole pound.

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## EXPLANATORY NOTE

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

These Regulations replace in consolidated form the provisions of Part I of Schedule 1 to the Social Security (Earnings Factor) Regulations 1979 as amended by S.I. 1985/1417, 1987/316 and 411 and by regulation 2(3) of S.I. 1988/429. They also make a consequential amendment to regulation 4 of those Regulations.

S.I. 1985/1417 and 1987/316 and 411 were revoked by regulation 3 of S.I. 1988/429. These Regulations revoke regulation 2(3) of that instrument.

The provisions in the Schedule are the rules for ascertaining earnings factors derived, in respect of tax years beginning on or after 6th April 1987, from earnings on which primary Class 1 contributions have been paid or treated as paid. They do not apply to earnings factors for earlier years.

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The report of the Occupational Pensions Board on the draft of these Regulations which was referred to them, together with a statement by the Secretary of State on that Report, is contained in Command Paper No.1537, published by Her Majesty's Stationery Office.