

## SCHEDULE 2

Regulation 12(2)

### DEDUCTION FROM EARNINGS

#### Notice

1.—(1) When acting under regulation 12, the Department must prepare a notice requiring an employer of the person from whom the outstanding amount is recoverable (“the liable person”)—

- (a) to make deductions from earnings which are payable to the liable person, and
- (b) to pay corresponding amounts to the Department for application towards the discharge of the outstanding amount.

(2) Having prepared a notice under this paragraph, the Department must give the notice to—

- (a) the liable person, and
- (b) the employer to whom the notice is directed.

(3) The notice must specify—

- (a) the full name and address of the liable person,
- (b) the name of the employer,
- (c) where known, the liable person’s place of work, the nature of that person’s work and any staff number, payroll number or similar identifying number,
- (d) the liable person’s national insurance number,
- (e) the deduction or rate of deduction to be made under paragraph 3,
- (f) the protected earnings proportion,
- (g) the address to which amounts paid by cheque are to be sent, and
- (h) details of the account to which amounts paid by direct credit transfer are to be transferred.

(4) The notice has effect from the next pay-day which falls a minimum of 22 days after the day on which it is given.

#### Meaning of “earnings” etc.

2.—(1) This paragraph applies for the purposes of this Schedule.

(2) “Earnings”, in relation to the liable person, means any sum payable to the liable person by way of—

- (a) wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary payable under a contract of service),
- (b) pension paid with wages or salary (including an annuity in respect of past service, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment), or
- (c) statutory sick pay.

(3) But a reference to earnings in relation to the liable person does not include a reference to—

- (a) any sum payable by a public department of a territory outside the United Kingdom,
- (b) any pay or allowance payable to the person as a member of Her Majesty’s forces other than pay or allowances payable by the employer to the person as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996(1)),

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(1) 1996 c. 14.

*Status: This is the original version (as it was originally made).*

- (c) any pension, allowance or benefit payable under a statutory provision relating to social security,
- (d) any pension or allowance payable in respect of disablement or disability,
- (e) guaranteed minimum pension within the meaning of the Pension Schemes (Northern Ireland) Act 1993(2),
- (f) working tax credit payable under section 10 of the Tax Credits Act 2002(3), or
- (g) any sum paid to reimburse expenses wholly and unnecessarily incurred in the course of the employment.

(4) “Protected earnings proportion”, in relation to the liable person, means 60% of the person’s net earnings during the period to which a deduction under this Schedule relates, as calculated by the employer on the relevant pay-day.

(5) “Net earnings”, in relation to the liable person, means the residue of the person’s earnings after the deduction of—

- (a) income tax,
- (b) primary Class 1 contributions,
- (c) amounts deductible by way of contributions to a superannuation scheme which provides for the payment of annuities or lump sums—
  - (i) to the liable person on retirement at a specified age or on becoming incapacitated at some earlier age, or
  - (ii) on the liable person’s death or otherwise, to the liable person’s personal representative, widow, widower, surviving civil partner, relatives or dependants.

(6) “Pay-day”, in relation to the liable person, means an occasion on which earnings are to be paid to that person or the day on which earnings would normally fall to be paid.

**Deduction by employer: general**

3.—(1) This paragraph applies where an employer of the liable person has received a notice under paragraph 1 relating to the liable person.

(2) On each pay-day the employer must make a deduction from the net earnings which the employer would otherwise pay to the liable person on that pay-day.

(3) Where the earnings are payable weekly, the amount to be deducted is—

- (a) the percentage of net earnings specified in Table A below for the band within which the net earnings payable on the pay day in question fall, or
- (b) a lower amount calculated in the manner specified in the notice.

**Table A**

<b>Net earnings band</b>	<b>Percentage of net earnings</b>
Not exceeding £100	Nil
Exceeding £100 but not exceeding £160	3
Exceeding £160 but not exceeding £220	5
Exceeding £220 but not exceeding £270	7

(2) 1993 c. 49  
 (3) 2002 c. 21

<b>Net earnings band</b>	<b>Percentage of net earnings</b>
Exceeding £270 but not exceeding £375	11
Exceeding £375 but not exceeding £520	15
Exceeding £520	20

- (4) Where the earnings are payable monthly, the amount to be deducted is—
- (a) the percentage of net earnings specified in Table B below for the band within which the net earnings payable on the pay day in question fall, or
  - (b) a lower amount calculated in the manner specified in the notice.

**Table B**

<b>Net earnings band</b>	<b>Percentage of net earnings</b>
Not exceeding £430	Nil
Exceeding £430 but not exceeding £690	3
Exceeding £690 but not exceeding £950	5
Exceeding £950 but not exceeding £1,160	7
Exceeding £1,160 but not exceeding £1,615	11
Exceeding £1,615 but not exceeding £2,240	15
Exceeding £2,240	20

(5) Where an amount determined under sub-paragraph (3) or (4) results in a fraction of a penny, that fraction is to be disregarded if it is half a penny or less; otherwise it is to be treated as a penny.

- (6) The employer remains subject to the duty under sub-paragraph (2) unless and until—
- (a) The employer is notified by the Department that the notice—
    - (i) has been varied under paragraph 9,
    - (ii) has been discharged under paragraph 10, or
    - (iii) has lapsed under paragraph 11, or
  - (b) the employer considers that, as a result of deductions under this Schedule, the outstanding amount is nil.

#### **Deduction by employer: particular cases**

4.—(1) Where there is a pay-day (“the relevant pay-day”) on which the employer fails to deduct the amount required under paragraph 3, the employer must on the next available pay-day or pay-days deduct—

- (a) first, the amount required to be deducted, and
- (b) then, the amount which should have been deducted on the relevant pay-day.

(2) Where there is a pay-day (“the relevant pay-day”) on which the employer deducts less than the amount required under paragraph 3, the employer must on the next available pay-day or pay-days deduct—

- (a) first, the amount required to be deducted, and
- (b) second, the difference between the amount which was deducted, and the amount which should have been deducted, on the relevant pay-day.

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(3) Where there is a pay-day (“the relevant pay-day”) on which the employer deducts more than the amount required under paragraph 3, the employer must on the next available pay-day or pay-days deduct only the amount required to be deducted less the difference between the amount which was deducted, and the amount which should have been deducted, on the relevant pay-day.

(4) Where a deduction under paragraph 3 would reduce the amount paid to the liable person below the protected earnings proportion, the employer must deduct only such amount as will result in the employer paying the liable person an amount equal to the protected earnings proportion.

(5) Where the employer makes a deduction on a pay-day in accordance with the notice under paragraph 1, the employer may also deduct an amount not exceeding £1 for administrative costs; and a deduction under this sub-paragraph may reduce the amount which the employer pays to the liable person on that pay-day below the protected earnings proportion.

### **Notification to liable person**

5.—(1) The employer must notify the liable person in writing of—

- (a) the amount of a deduction under paragraph 3 or 4(1) to (3), and
- (b) if a deduction is made under paragraph 4(5), the amount of that deduction.

(2) A notification under this paragraph must be given no later than the pay-day on which the deduction is made or, where that is impracticable, no later than the following pay-day.

(3) The employer must, within 28 days of receiving a written request from the liable person, provide the person with an explanation in writing of how the amount of a deduction under paragraph 3 was calculated.

### **Payment to Department**

6.—(1) Where the employer makes a deduction under paragraph 3 or 4(1) to (3), the employer must pay the amount of the deduction to the Department by the 19th day of the month following that in which the deduction is made.

(2) A payment under this paragraph may be made by cheque, direct credit transfer or such other method as the Department may permit.

(3) The employer must keep a record of each amount paid to the Department in the case of the liable person.

### **Information from liable person**

7.—(1) The liable person, having received a notice under paragraph 1, must notify the Department within 7 days of each occasion on which the person—

- (a) leaves the employment of the employer to whom the notice is directed, or
- (b) becomes employed or re-employed.

(2) A notification under sub-paragraph (1)(b) must include—

- (a) the name and address of the employer or employers,
- (b) the amount of the liable person’s earnings or expected earnings, and
- (c) the liable person’s place of work, the nature of the liable person’s work and any staff number, payroll number or similar identifying number.

### **Notification to Department**

8.—(1) Where a notice under paragraph 1 is given to a person who is believed to be the liable person’s employer but is in fact not, the person receiving the notice must notify the Department of

that fact in writing, at the address specified in the notice, as soon as reasonably practicable after the notice was given.

(2) Where a person who is the liable person's employer is required to make deductions under a notice under paragraph 1 and the liable person ceases to be in that employment, the employer must notify the Department of that fact in writing, at the address specified in the notice, within 10 days after the day on which the liable person ceases to be in that employment.

### **Variation**

9.—(1) The Department may vary a notice under paragraph 1 so as to—

- (a) decrease an amount to be deducted under paragraph 3, or
- (b) with the agreement of the liable person, increase an amount to be deducted under paragraph 3 but only to the extent that deductions of the increased amount will result in the employer paying the liable person an amount greater than or equal to the protected earnings proportion.

(2) Where a notice under paragraph 1 is varied under this paragraph, paragraph 1 applies to the notice as varied as it applies to the original notice; and a reference in this Schedule to the notice is a reference to the notice as varied.

(3) Where a notice as varied is given under paragraph 1, the employer who is liable to make deductions under the notice must comply with the notice as varied from the day it takes effect under that paragraph.

### **Discharge**

10.—(1) The Department must discharge a notice under paragraph 1 if the outstanding amount is paid.

(2) The Department may discharge a notice under paragraph 1 if—

- (a) it appears to the Department that the notice is defective,
- (b) it appears to the Department that the notice is ineffective or that some other method of recovering the outstanding amount would be more effective, or
- (c) the liable person agrees with the Department to pay the outstanding amount by another method.

(3) A notice may be regarded as defective for the purposes of sub-paragraph (2)(a) where—

- (a) it fails comply with paragraph 1(2), and
- (b) that failure has made it impracticable for the employer to comply with the duties under this Schedule.

(4) Where a notice is discharged under sub-paragraph (1) or (2), the Department must give notification of the discharge to the liable person and the employer concerned.

(5) Where a notice is discharged under sub-paragraph (2)(b) or (c), paragraph 6 nevertheless continues to apply in relation to any amount not yet paid to the Department.

### **Lapse**

11.—(1) Where the liable person's employment terminates, a notice under paragraph 1 lapses immediately after the pay-day coinciding with or following the termination.

(2) Where a notice lapses under this paragraph, paragraph 6 nevertheless continues to apply in relation to any amount not yet paid to the Department.

### **Crown employment**

12.—(1) This paragraph applies where the liable person is employed by the Crown.

(2) The chief officer for the time being of the government department, office or other body in which the liable person is employed is to be treated as employing the liable person (any transfer of the person from one department, office or body to another being treated as a change of employment).

(3) Any earnings paid by the Crown, a minister of the Crown or a government department, or out of the public revenue of the United Kingdom or Northern Ireland, are to be treated as paid by that chief officer.

(4) “Government department” includes a department of the government of the United Kingdom.

### **Priority**

13.—(1) This paragraph applies where there is a pay-day in relation to the liable person on which the employer is required—

- (a) to comply with two or more notices under paragraph 1, or
- (b) to comply with one or more notices under paragraph 1 and with one or more of any of the following—
  - (i) child support orders;
  - (ii) other maintenance orders;
  - (iii) welfare overpayment notices.

(2) In a case within sub-paragraph (1)(a), the employer must—

- (a) deal with each notice according to the date on which it was made, disregarding any later notice until an earlier one has been dealt with, and
- (b) deal with any later notice as if the earnings to which it relates were the residue of the liable person’s earnings after the making of any deduction to comply with any earlier notice.

(3) In a case within sub-paragraph (1)(b), the employer must—

- (a) first, deal with any child support order,
- (b) then, deal with any other deduction order,
- (c) then, deal with any welfare overpayment notice, and
- (d) then, deal with the notice or notices under paragraph 1.

(4) Where the employer, when acting under paragraph (a), (b), (c) or (d) of sub-paragraph (3), has to deal with two or more of the orders or notices referred to in that paragraph, the employer must deal with them by using the method set out in sub-paragraph (2).

(5) The employer may make deductions under this paragraph only in so far as the deductions will result in the employer paying the liable person an amount greater than or equal to the protected earnings proportion.

(6) “Child support order” means a deduction from earnings order under Part 3 of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(4).

(7) “Other deduction order” means an order, other than a child support order, under a statutory provision which requires deduction to be made from a person’s earnings.

(8) “Welfare overpayment notice” means a notice under regulation 18 of the Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016(5).

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(4) S.R. 1992 No. 390.

(5) S.R. 2016 No. 224.

**Service by post**

14. Where a notice or notification to be given under this Schedule is sent by ordinary post to the last known address of the recipient, it is to be treated as given on the day on which it is posted.