

**2001 No. 573**

**SOCIAL SECURITY**

**The Social Security (Credits and Incapacity Benefit)  
Amendment Regulations 2001**

*Made - - - - - 26th February 2001*

*Laid before Parliament 5th March 2001*

*Coming into force—*

*except for the purposes of  
regulation 3 26th March 2001*

*for the purposes of regulation 3 6th April 2001*

The Secretary of State for Social Security, in exercise of powers conferred by sections 22(5), 122(1) and 175(1) to (3) of, and paragraph 2(8) of Schedule 3 to, the Social Security Contributions and Benefits Act 1992(a) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(b), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Credits and Incapacity Benefit) Amendment Regulations 2001 and shall come into force—

- (a) except for the purposes of regulation 3, on 26th March 2001;
- (b) for the purposes of regulation 3, on 6th April 2001 immediately after the coming into force of regulation 2(2) of the Social Security (Incapacity Benefit) Miscellaneous Amendments Regulations 2000(c).

**Amendment of the Social Security (Credits) Regulations 1975**

2. After regulation 9C of the Social Security (Credits) Regulations 1975(d) (credits for maternity pay period), insert—

**“Credits for certain periods of imprisonment or detention in legal custody**

**9D.**—(1) Subject to paragraphs (2) and (4), for the purposes of entitlement to any benefit by virtue of a person’s earnings or contributions, where—

- (a) a person is imprisoned or otherwise detained in legal custody by reason of his conviction of an offence or convictions in respect of 2 or more offences;
- (b) that conviction or, as the case may be, each of those convictions is subsequently quashed by the Crown Court, the Court of Appeal or the High Court of Justiciary; and

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(a) 1992 c. 4. Section 22(5) was amended by paragraph 22 of Schedule 2 to the Jobseekers Act 1995 (c. 18). Section 122(1) is cited because of the meaning ascribed to the word “prescribe”. Section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Paragraph 2(8) was added by section 62(4) of the Welfare Reform and Pensions Act 1999 (c. 30).

(b) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(c) S.I. 2000/3120.

(d) S.I. 1975/556. Regulation 9C was inserted by regulation 2(3) of S.I. 1988/516.

- (c) he is released from that imprisonment or detention, whether prior, or pursuant, to the quashing of that conviction or, as the case may be, each of those convictions,

that person shall, if he has made an application in writing to the Secretary of State for the purpose, be entitled to be credited with earnings or, in the case of any year earlier than 1987–88, contributions, in accordance with paragraph (3).

(2) Paragraph (1) shall not apply in respect of any period during which the person was also imprisoned or otherwise detained in legal custody for reasons unconnected with the conviction or convictions referred to in that paragraph.

(3) The earnings or, as the case may be, the contributions referred to in paragraph (1) are, in respect of any week in any part of which the person was—

- (a) detained in legal custody—
  - (i) prior to the conviction or convictions referred to in that paragraph, but,
  - (ii) for the purposes of any proceedings in relation to any offence referred to in sub-paragraph (a) of that paragraph; or
- (b) imprisoned or otherwise detained in legal custody by reason of that conviction or those convictions,

those necessary for the purpose of bringing his earnings factor, for the year in which such a week falls, to the level required to make that year a reckonable year.

(4) Subject to paragraph (5), paragraph (1) shall not apply to a woman in respect of any week referred to in paragraph (3) in any part of which she was a married woman in respect of whom an election made by her under regulations made under section 19(4) of the Contributions and Benefits Act had effect.

(5) Paragraph (4) shall not apply to any woman—

- (a) who was imprisoned or otherwise detained in legal custody as referred to in paragraph (3) for a continuous period which included 2 complete years; and
- (b) whose election ceased to have effect in accordance with regulation 101(1)(c) of the Social Security (Contributions) Regulations 1979<sup>(a)</sup> (which provides for an election to cease to have effect at the end of 2 consecutive years which began on or after 6th April 1978 during which the woman is not liable for primary Class 1 or Class 2 contributions).

(6) An application referred to in paragraph (1) may be transmitted by electronic means.”.

#### **Amendment of the Social Security (Incapacity Benefit) Regulations 1994**

**3.** In regulation 2B(2) of the Social Security (Incapacity Benefit) Regulations 1994<sup>(b)</sup> (relaxation of the first contribution condition in certain cases) after sub-paragraph (b), insert—

- “(ba) he is, in respect of any week in any tax year preceding the relevant benefit year, a person who—
  - (i) is entitled to be credited with earnings or, as the case may be, contributions in accordance with regulation 9D of the Social Security (Credits) Regulations 1975 (credits for certain periods of imprisonment or detention in legal custody), or
  - (ii) would be so entitled had he made an application to the Secretary of State for the purpose of that regulation;”.

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

26th February 2001

*Jeff Rooker*  
Minister of State,  
Department of Social Security

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<sup>(a)</sup> S.I. 1979/591.

<sup>(b)</sup> S.I. 1994/2946. Regulation 2B was inserted by regulation 2(2) of S.I. 2000/3120.

## **EXPLANATORY NOTE**

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

These Regulations further amend the Social Security (Credits) Regulations 1975 (“the Credits Regulations”) and the Social Security (Incapacity Benefit) Regulations 1994 (“the Incapacity Benefit Regulations”).

Regulation 2 amends the Credits Regulations by inserting new regulation 9D of those Regulations to provide that, for the purposes of entitlement to any contributory benefit, certain prisoners who have had their conviction of a single offence or convictions or two or more offences quashed shall, upon application in writing to the Secretary of State, be entitled to be credited with such earnings or, as the case may be, contributions to make any year in which there is a week (or part of a week) during which such a prisoner was detained in legal custody, a reckonable year for the purposes of entitlement to any benefit. The new regulation also provides for any such application to be made by electronic means.

Regulation 3 amends the Incapacity Benefit Regulations by inserting a new sub-paragraph (ba) into paragraph (2) of regulation 2B of those Regulations to extend the relaxation of the first contribution condition for incapacity benefit to those prisoners to whom regulation 2 of these Regulations applies.

These Regulations do not impose any costs on business.

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