
STATUTORY INSTRUMENTS

2002 No. 2823

SOCIAL SECURITY

The Social Security Benefit (Computation of Earnings) (Amendment) Regulations 2002

<i>Made</i>	- - - -	<i>14th November 2002</i>
<i>Laid before Parliament</i>		<i>15th November 2002</i>
<i>Coming into force—</i>		
<i>for certain purposes—</i>		<i>8th December 2002</i>
<i>for all other purposes</i>		<i>1st April 2003</i>

The Treasury, in exercise of the powers conferred upon them by section 3(2) and (3) of the Social Security Contributions and Benefits Act 1992(1), with the concurrence of the Secretary of State, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security Benefit (Computation of Earnings) (Amendment) Regulations 2002 and shall come into force—

- (a) for the purposes of the amendments made by paragraphs (2) and (3) of regulation 2 on 8th December 2002; and
- (b) for all other purposes on 1st April 2003.

2.—(1) Amend the Social Security Benefit (Computation of Earnings) Regulations 1996(2) as follows.

(2) In regulation 2 omit the definition in paragraph (1) of “maternity leave”.

(3) In regulation 9—

(a) for sub-paragraph (j) of paragraph (1) substitute—

“(j) any remuneration paid by or on behalf of an employer to the claimant in respect of a period throughout which the claimant is—

(i) on maternity leave;

(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).

(2) S.I. 1996/2745: there are amendments which are not relevant for present purposes.

- (ii) on paternity leave;
 - (iii) on adoption leave; or
 - (iv) absent from work because he is ill.”
- (b) at the appropriate points in the alphabetical list in paragraph (4) insert the following definitions—
- ““adoption leave” means a period of absence from work on ordinary or additional adoption leave under section 75A or 75B of the Employment Rights Act 1996(3);”;
 - ““maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996(4);” and
 - ““paternity leave” means a period of absence from work on leave under section 80A or 80B of the Employment Rights Act 1996(5).”
- (4) In the provisions mentioned in paragraph (5) for “invalid care allowance” substitute “carer’s allowance(6)”.
- (5) The provisions are—
- (a) regulation 7(a)(i) (date on which earnings are treated as paid);
 - (b) regulation 10(3) (calculation of net earnings of employed earners);
 - (c) regulation 13(3) (calculation of net earnings of self-employed earners); and
 - (d) the heading to, and paragraph 1(a) of, Schedule 3 (care charges to be deducted in the calculation of earnings for entitlement to invalid care allowance).

14th November 2002

Philip Woolas
John Heppell
Two of the Lords Commissioners of Her
Majesty’s Treasury

The Secretary of State hereby concurs.

14th November 2002

P. Hollis
Parliamentary Under Secretary of State,
Department for Work and Pensions

(3) 1996 c. 18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22).
(4) Part 8 was substituted by Part 1 of Schedule 4 to the Employment Relations Act 1999 (c. 26).
(5) Sections 80A and 80B were inserted by section 1 of the Employment Act 2002.
(6) Invalid care allowance is renamed carer’s allowance by virtue of the Regulatory Reform (Carer’s Allowance) Order 2002 (S.I. 2002/1457).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Benefit (Computation of Earnings) Regulations 1996 (S.I.1996/2745).

Regulation 1 provides for the citation and commencement of these Regulations.

Regulation 2 amends the 1996 Regulations. Paragraph (1) introduces the amendments. Paragraph (2) omits the definition of maternity leave (which is used only in regulation 9) from regulation 2(1). Paragraph (3) amends regulation 9 as follows. It substitutes a new sub-paragraph (j) in regulation 9(1). The effect is that earnings for benefit purposes include not only remuneration paid to a claimant during a period of maternity leave or sick absence but also any payment of remuneration during a period of adoption leave under section 75A or 75B of the Employment Rights Act 1996 (c. 18) or paternity leave under section 80A or 80B or of that Act. Paragraph (3) also inserts definitions of “adoption leave”, “maternity leave” and “paternity leave” in regulation 9(4). Paragraphs (4) and (5) make amendments to regulations 7, 10 and 13 and Schedule 3 consequent on the renaming of invalid care allowance as carer’s allowance under the Regulatory Reform (Carer’s Allowance) Order 2002 (S.I. 2002/1457).