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STATUTORY INSTRUMENTS

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**2007 No. 2582**

**The Social Security (National Insurance Credits) Amendment Regulations 2007**

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

2. After regulation 8C of the Social Security (Credits) Regulations 1975(1), insert—

**“Credits for the purposes of entitlement to incapacity benefit following official error**

**8D.**—(1) This regulation applies for the purpose only of enabling a person who was previously entitled to incapacity benefit to satisfy the condition referred to in paragraph 2(3) (a) of Schedule 3 to the Contributions and Benefits Act in respect of a subsequent claim for incapacity benefit where his period of incapacity for work is, together with a previous period of incapacity for work, to be treated as one period of incapacity for work under section 30C of that Act.

(2) Where—

- (a) a person was previously entitled to incapacity benefit;
- (b) the award of incapacity benefit was as a result of satisfying the condition referred to in paragraph (1) by virtue of being credited with earnings for incapacity for work or approved training in the tax years from 1993-94 to 2007-08;
- (c) some or all of those credits were credited by virtue of official error derived from the failure to transpose correctly information relating to those credits from the Department for Work and Pensions’ Pension Strategy Computer System to Her Majesty’s Revenue and Customs’ computer system (NIRS2) or from related clerical procedures;
- (d) that person makes a further claim for incapacity benefit; and
- (e) his period of incapacity for work is, together with the period of incapacity for work to which his previous entitlement referred to in sub-paragraph (a) related, to be treated as one period of incapacity for work under section 30C of the Contributions and Benefits Act,

that person shall be credited with such earnings as may be required to enable the condition referred to in paragraph (1) to be satisfied.

(3) In this regulation and in regulations 8E and 8F, “official error” means an error made by—

- (a) an officer of the Department for Work and Pensions or an officer of Revenue and Customs acting as such which no person outside the Department or Her Majesty’s Revenue and Customs caused or to which no person outside the

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(1) S.I. 1975/556; relevant amending instruments are S.I. 1977/788, 1978/409, 1982/96, 1983/197, 1987/414, 1987/687, 1988/516, 1988/1545, 1991/387, 1991/2772, 1992/726, 1994/1837, 1995/829, 1995/2558, 1996/2367, 2000/3120 and 2003/521. Credits for approved training are made under regulation 7. Credits for incapacity for work are made under regulation 8B and were made under regulation 9 before the amendments made by S.I. 1996/2367.

Department for Work and Pensions or Her Majesty's Revenue and Customs materially contributed; or

- (b) a person employed by a service provider and to which no person who was not so employed materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of a Commissioner or the court.

- (4) In paragraph (3)—

“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of three or more Commissioners constituted under section 16(7) of the Social Security Act 1998;

“service provider” means a person providing services to the Secretary of State for Work and Pensions or to Her Majesty's Revenue and Customs.

#### **Credits for the purposes of entitlement to retirement pension following official error**

**8E.**—(1) This regulation applies for the purpose only of enabling the condition referred to in paragraph 5(3)(a) of Schedule 3 to the Contributions and Benefits Act to be satisfied in respect of a claim for retirement pension made by a person (“the claimant”)—

- (a) who would attain pensionable age no later than 31st May 2008;
- (b) not falling within sub-paragraph (a) but based on the satisfaction of that condition by another person—
  - (i) who would attain, or would have attained, pensionable age no later than 31st May 2008; or
  - (ii) in respect of whose death the claimant received a bereavement benefit.

- (2) Where—

- (a) a person claims retirement pension;
- (b) the satisfaction of the condition referred to in paragraph (1) would be based on earnings credited for incapacity for work or approved training in the tax years from 1993-94 to 2007-08; and
- (c) some or all of those credits were credited by virtue of official error derived from the failure to transpose correctly information relating to those credits from the Department for Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' computer system (NIRS2) or from related clerical procedures,

those earnings shall be credited.

(3) In this regulation, “bereavement benefit” means a bereavement allowance, a widowed mother's allowance, a widowed parent's allowance or a widow's pension.

#### **Credits for the purposes of entitlement to contribution-based jobseeker's allowance following official error**

**8F.**—(1) This regulation applies for the purpose only of enabling a person to satisfy the condition referred to in section 2(1)(b) of the Jobseekers Act 1995(2).

- (2) Where—

- (a) a person claims a jobseeker's allowance;

- (b) the satisfaction of the condition referred to in paragraph (1) would be based on earnings credited for incapacity for work or approved training in the tax years from 1993-94 to 2007-08; and
  - (c) some or all of those credits were credited by virtue of official error derived from the failure to transpose correctly information relating to those credits from the Department for Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' computer system (NIRS2) or from related clerical procedures,
- that person shall be credited with those earnings.”.